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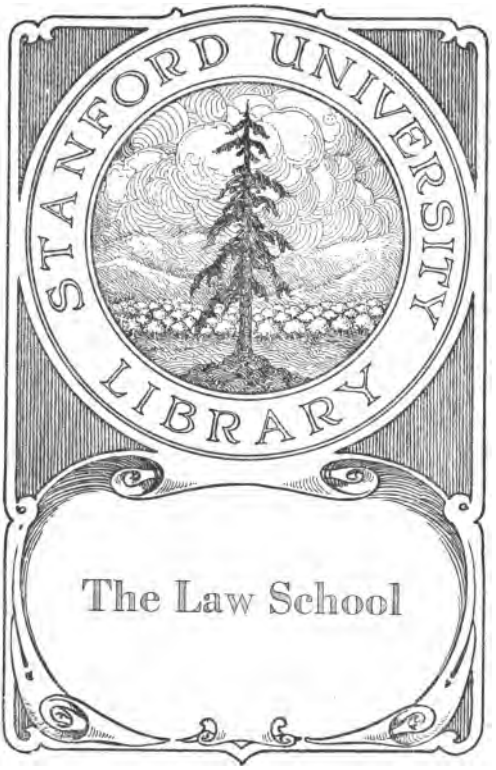
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ACTS OF A GENERAL NATURE

AND

LOCAL LAWS AND JOINT RESOLUTIONS,

PASSED BY THE

FIFTY-THIRD GENERAL ASSEMBLY,

OF THE

STATE OF OHIO:

AT ITS SECOND SESSION,

BEGUN AND HELD IN THE CITY OF COLUMBUS,

JANUARY 3, 1859,

AND THE FIFTY-SEVENTH YEAR OF SAID STATE.

VOLUME LVI.

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ACTS OF A GENERAL NATURE.

AN ACT

Making partial Appropriations for the year 1859.

Appropriations for.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the following sums, in addition to former appropriations, be, and the same are hereby appropriated out of any money in the treasury for general revenue purposes for the year 1859, to-wit:

Lieut. Governor and General Assembly.

For the per diem pay of the lieutenant governor as president of the senate; the payment of members of the general assembly, their clerks, assistant clerks, sergeants-at-arms and their assistants, and messengers, the sum of fifty thousand dollars.

Convicts.

For the payment of costs of prosecution, conviction and transportation of convicts to the Ohio Penitentiary, ten thousand dollars.

Comptroller.

For the payment of the salary of the comptroller of the treasury, eight hundred dollars.

His clerks.

For the payment of the salaries of the clerks in the comptroller's office, twelve hundred dollars.

His contingent fund.

For the contingent fund of the comptroller of the treasury, three hundred dollars.

Auditor's contingent fund.

For the contingent fund of the auditor of state, one thousand dollars.

Treasurer's.

For the contingent fund of the treasurer of state, fifteen hundred dollars.

Gas.

For gas for the state house, fifteen hundred dollars.

State Library.

For books and magazines, and binding for the state library, three hundred dollars.

Librarian's contingent fund.

For contingent expenses of the librarian, one hundred and fifty dollars.

Printing.

For printing, twelve thousand dollars.

Binding.

For binding, twelve thousand dollars.

Secretary of School Commissioner.

For the payment on account of the salary of the secretary of the state commissioner of common schools, seventy-five dollars.

Engravings in Agricultural Report.

To supply a deficiency in the appropriation to pay for engravings for report of state board of agriculture for 1857, and to pay for printing said engravings, the sum of five hundred and one dollars and fifteen cents.

Martha McLaughlin.

For Martha McLaughlin, in lieu of the appropriation made for her by the act entitled "an act for the relief of Martha McLaughlin," passed April 12, 1858, one thousand dollars.

Deaf and Dumb Asylum.

For bedsteads, mattrasses, bedding and repairs for the deaf and dumb asylum, two thousand dollars.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 11, 1859.

AN ACT

Transferring certain appropriations for the Benevolent Institutions.

55 Laws, 104.

WHEREAS, By the proviso to the act entitled an act making appropriations for the year one thousand eight hundred and fifty-eight, and for the first quarter of the year 1859, passed April 12, 1858, the sum of eight thousand dollars of the moneys appropriated by that act to the Central Lunatic Asylum, the sum of four thousand dollars of the amount appropriated to the Northern Lunatic Asylum, the sum of four thousand dollars of the amount appropriated to the Southern Lunatic Asylum, the sum of three thousand dollars of the amount appropriated to the Deaf and Dumb Asylum, and the sum of three thousand dollars of the amount appropriated to the Blind Asylum for the current expenses of said institutions, were, by the said act, set apart and appropriated to be paid on the expenses of the first quarter of 1859; and whereas, by the act entitled an act making appropriations in part for the first quarter of the year 1859, passed April 12, 1858, appropriations were made for the current expenses of said institutions for the first quarter of the year 1859, intended to supercede the said first mentioned appropriations, and to leave the said sums in the said proviso mentioned for the current expenses of the year 1858;

55 Laws, 153.

Transfer of Appropriations.

SECTION 1. *Therefore, Be it enacted by the General Assembly of the State of Ohio*, That the said sums in the said proviso mentioned, be and the same are hereby transferred from the first quarter of the year 1859 to, and appropriated for, the expense of said institutions respectively for the year 1858.

Reimbursement of Governor's contingent fund.

SEC. 2. That the auditor of state be, and is hereby authorized to reimburse from the sum so transferred, the governor's contingent fund and any other funds, from which moneys

may have been drawn to pay the expenses of said institutions, or either of them, for the year 1858.

SEC. 3. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 11, 1859.

AN ACT

To authorize the sale of any and all of the shares of stock held by the State, in the Turnpike Companies of this State, and to amend section one of an act in relation to the duties of the Commissioners of the Sinking Fund, passed May 1, 1854. Swan's R. S., 178.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the act to which this act is supplementary and amendatory, be so amended as to read as follows: That the commissioners of the sinking fund are hereby authorized, and when an opportunity occurs they are directed to exchange for certificates of the six per cent. stock of the funded debt of this state, or to sell, or otherwise dispose of, for money, any and all of the shares of stock held by the state in any of the railroad companies, and canal companies of this state; provided, that such shares of stock, shall in no case be sold, or otherwise disposed of, except upon cash payment therefor; and in no case shall any such shares be sold, exchanged, or otherwise disposed of, at less than the actual cash value of the same. Should such commissioners be unable to exchange said stocks for certificates of the funded debt of the state, they may, at such times as they may deem proper, advertise that proposals will be received by them, at their office in Columbus, for the purchase of any or all of said stocks: such notice shall be published in such newspapers as they may direct, and shall be given at least ninety days before the time fixed for opening said proposals. Proposals shall be considered without respect to the number of shares bid for, and the sale shall be awarded to the highest bidder; Provided, that nothing in this section contained shall be construed to compel the sinking fund commissioners to exchange, sell, or otherwise dispose of any of said stocks at less than the par value thereof, unless in their opinion the interest of the state will be promoted thereby.

Exchange or sale of State's R. R. and Canal stock.

Terms.

Notice for proposals.

Sale.

Price.

SEC. 2. The commissioners of the sinking fund are hereby authorized and directed to sell and transfer any and all of the shares of stock held by the state in any turnpike company of the state. They shall immediately after the passage

of this act, advertise all the shares of stock held by the state, in any turnpike company to be sold at auction, to the highest bidder, in lots of not less than ten shares each, nor more than fifty shares each, at some public and convenient place on the line of the road of said company, by giving at least thirty days' notice of the time and place of the sale, by posters set up at the gate or gates thereon, and in some newspaper of general circulation in the county or counties through which said road passes; provided, that nothing in this section contained shall be construed to compel the sinking fund commissioners to sell or dispose of, any of said stocks for less than their fair cash value, to be estimated by said sinking fund commissioners.

Who to conduct sale, &c.

SEC. 3. Any sale of shares of stock made under the provisions of this act, shall be conducted by an agent appointed by the governor; but the approval of at least two of the commissioners shall be necessary to its confirmation. The purchaser or purchasers of such shares of stock shall be required to pay one-third of the purchase money down and the balance in two equal annual payments, with six per cent. interest; but no transfer of stock shall be made by said commissioners until the same is paid for in full.

Terms.

Transfer.

Privileges of transferees.

SEC. 4. The shares of stock now owned by the state, in any turnpike company, shall not entitle the person or persons to whom the same may be transferred, by virtue of this act, to vote at the annual election for directors now provided for in the charter of said company; but the person or persons to whom such shares of stock may be transferred, are hereby authorized to meet at the same time and place with the present stockholders, and then and there elect, subject to the same regulations that govern the original stockholders in their election for directors, the number of directors that the governor is now required to appoint in said board.

Sec. repealed.

SEC. 5. Section one of the above recited act is hereby repealed.

SEC. 6. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

AN ACT

Swan's, 836.

Supplementary to an act to provide for the reorganization, supervision and maintenance of common schools, passed March 14, 1853.

Curwen's R. S., 2210; Curwen's Laws, c. 639.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education of any incorpor-

ated village in this state may unite with the board of education of the township in which such village, or any part of it, be situated, for the purpose of establishing a central or high school within such township. The said board shall jointly agree upon an estimate of the probable cost thereof, and thereupon call separate meetings of the qualified voters of their respective districts, in the manner now provided by the twenty-first section of the act to which this is supplementary; and said meetings, when so convened, shall in all respects be held and conducted in accordance with the provisions of the section aforesaid; Provided that no such central or high school shall be so established, unless a majority of the voters at each of said meetings, shall vote in favor of the same. The further establishment of such central or high school, and the control of the same, when established, shall be ordered and regulated in such manner as shall be agreed upon and directed by said boards of education interested therein.

Union of village board of education with township board to establish central or high school.

How established and controlled.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 24, 1859.

AN ACT

Making partial appropriations for the year 1859.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sum of money be and the same is hereby appropriated out of any money in the state treasury for general revenue purposes, to be paid on the order of the auditor of state, for the year 1859, to wit: For the sinking of the artesian well, to be expended according to the joint resolution of the general assembly, adopted April 8, 1857, or in such other manner as the legislature may direct, the sum of fifteen hundred dollars.

Appropriation for artesian well.

51 O. L., 285.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 28, 1859.

AN ACT

Curwen's R. S., 572. Swan's, 496.

To amend section one of an act entitled an "act to regulate inclosures, and to provide against trespassing animals," passed January 17, 1840.

The expense of partition fences, how adjusted and by whom borne.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever a fence, of whatsoever materials constructed, and in all respects such as a good husbandman ought to keep, shall hereafter be erected by any person on the line of his land or that on which he may have a lease for one or more years, and the person owning the land adjoing thereto, or holding a lease on the same for three or more years, shall make or cause to be made, or have an inclosure on the opposite side of such fence, so that such fence may answer the purpose of inclosing his field, meadow, lot or any other inclosure, such person shall pay the owner of such fence, already erected, one-half of the value of so much thereof as serves as a partition fence, to be adjudged by the township trustees of the township in which such fence may be situated; and the amount so adjudged, if not paid, may be recovered in a civil action before any court having competent jurisdiction, in the name of, and for the use of the owner of such fence, with costs of suit: Provided that nothing in this act contained shall apply to the inclosure of lots in cities and villages.

Sec. repealed. Right saved.

SEC. 2. That the first section of the act to which this is an amendment, is hereby repealed. But all rights accrued and liabilities incurred heretofore, shall remain in force as if this act had not been passed.

SEC. 3. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

AN ACT

To enable associations for gymnastic purposes to become bodies corporate.

Who may become a body corporate.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act it shall be lawful for any number of persons, not less than five, associated together within this state, for gymnastic purposes, or other purposes of physical training and education, to elect, at any meeting called for that purpose, any number of their members, not less than three, to serve as

Meeting.

directors, and one member to serve as secretary, who shall hold their offices for such period as may be provided by rules or by-laws as the association may adopt.

Proceedings at meeting, and name to be recorded by county recorder.

SEC. 2. That the secretary, so appointed, shall make a true record of the proceedings of the meeting, provided for by the first section of this act, certify and deliver the same to the recorder of the county in which such meeting shall be held, together with the name by which such association shall thereafter desire to be known; and it shall be the duty of such county recorder, immediately on the receipt of such certified statement, to record the same in such book of records as is used for recording similar certificates, relating to literary and other associations, for which service he may demand and receive the sum of ten cents per hundred words; and from and after the making of such record, the said directors and their associated members and successors shall be invested with the powers, privileges and immunities incident to aggregate corporations, and a certified transcript of the record herein authorized to be made by the county recorder, shall be deemed and taken in all courts and places whatsoever in this state, as evidence of the existence of such association and corporation.

His fees.

Effect of record.

Copy evidence.

General powers.

SEC. 3. The directors who may be appointed under the provisions of this act, and their successors in office, shall have perpetual succession by such name as may be designated, and by such name shall be legally capable of contracting and being contracted with, of prosecuting and defending suits, and of acquiring, holding, enjoying, disposing of and conveying such property, real or personal, as may be acquired by purchase, donation or otherwise, for the purpose of carrying out the intention of such association.

Officers, rules and by-laws.

SEC. 4. That such association, when incorporated, may elect such officers, and make such rules, regulations and by-laws, as they may deem necessary or expedient for their own government, and the management of their fiscal and other affairs to effect their objects.

Manner of perpetuating board of directors.

SEC. 5. That if said board of directors shall be vacated, either in whole or in part, either by death, resignation or otherwise, such board of directors may be revived, or such vacancy or vacancies filled in the manner provided in the first section of this act, for the original organization of the said board, or in such manner as may be provided in the by-laws of the association, and a majority of the directors shall constitute a quorum for the transaction of business.

SEC. 6. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

AN ACT

Prescribing the time when the official term of the judges of the courts of common pleas shall begin.

When term begins.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the official term of all judges of the court of common pleas elected at the election held on the second Tuesday of October, in the year eighteen hundred and fifty-eight, and of all such judges who may be hereafter elected, shall begin on the second Monday of February next after such election. Provided that nothing in the [this] act shall affect the term of office of any judge who may have been or shall hereafter be elected to fill a vacancy.

Proviso.

SEC 2. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

February 3, 1859.

AN ACT

To provide for platting and recording fractions of land.

WHEREAS, Sundry sections of land in this state have become divided into such small parcels and fractions as to render the description of the same on the tax duplicate indefinite and doubtful, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in such cases, the assessors of real property in their several districts, may and they are hereby required when appraising any such section so subdivided as aforesaid, to cause the said section or such parts thereof, as may be necessary, to be accurately platted and laid out into such subdivisions as the different titles to the land in the same may require, and to number the said fraction or subdivisions as fractions or subdivisions of said section, or such parts thereof as may be subdivided, and shall deliver the said plat so numbered to the recorder of the county, who shall accurately record the same, and from and after such record shall have been made, the numbers so given to said subdivisions or fraction, shall be deemed in law a sufficient description of the land so platted, numbered and recorded, for all purposes of taxation and conveyancing.

Assessors are to have certain sections platted, laid out and numbered, and plat recorded.

After record such number to be a sufficient description.

SEC. 2. That the recorder shall receive for his services under this act, the same fees as he is allowed for recording town plats, to be paid out of the county treasury, on the order of the auditor, and allowance of the commissioners. Recorder's fees how paid.

SEC. 3. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

To amend the second section of an act passed April 12, 1858, entitled "an act to amend an act entitled 'an act providing for the election of coroners and sheriffs and fixing their term of office,'" passed March 8, 1854. 55 Laws, 150.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the second section of an act entitled "an act providing for the election of coroners and sheriffs and fixing their term of office," passed March 8, 1854, be so amended as to read as follows: Section 2. That the term of office of all sheriffs and coroners elected in the several counties in this state, on the second Tuesday of October, in the year eighteen hundred and fifty-six, shall expire on the first Monday of January in the year eighteen hundred and fifty-nine, and the term of office of all sheriffs and coroners elected on the second Tuesday of October, in the year eighteen hundred and fifty-seven, shall expire on the first Monday of January in the year eighteen hundred and sixty, or as soon thereafter as their respective successors are elected and qualified. Swan's Revised Stat., 879. When terms expire.

SEC. 2. That the said original section two of said act passed April 12, 1858, be and the same is hereby repealed, but the repeal thereof shall not impair any liability incurred or act done under the same. Sec. repealed. Rights saved.

SEC. 3. This act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

Requiring Township Assessors to ascertain the number of Sheep killed and injured by Dogs.

Who to make statement and what to contain.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of each township assessor in this state, at the time of taking lists of chattel property for taxation, in each year, to require each person in their several townships to make a statement specifying the number of sheep killed by dogs, and also the number of sheep injured by dogs, in his district during the preceding year, together with the value of the sheep killed, and the estimate of the injury done; and the said assessors are required to make a return of the aforesaid statement to the county auditor of their respective counties at the time of returning the lists of chattel property for taxation.

Return of statements.

Blanks therefor.

SEC. 2. That it shall be the duty of the auditor of each county to furnish to the assessors of their respective counties such blanks as may be necessary for taking the aforesaid statements; and said county auditor shall, as soon as possible after the aforesaid statements are returned to him, make out and forward to the auditor of state a statement, showing the number of sheep so killed and injured as aforesaid, and the aggregate loss sustained thereby in each township in their respective counties.

County Auditor's statement to State Auditor.

His duty as to same.

SEC. 3. That it shall be the duty of the auditor of state, on receipt of the statements aforesaid, to make out and furnish to the secretary of the state board of agriculture, to be by him published in the annual report of said board, a statement showing the number of sheep killed and the number injured respectively, as aforesaid, in each county, and the aggregate loss in each county sustained thereby.

Statement to be published in Agricultural Report.

SEC. 4. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

Swan's R. S., 520. Curwen's R. S., 2075; Curwen's Laws, c. 579.

To amend the 138th section of an act of the jurisdiction and procedure before Justices of the Peace, and of the duties of Constables in Civil Courts, passed March 14, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one hundred and thirty-eight of the act aforesaid be amended so as to read as follows: Section

Service of writ of restitution.

138. The officer shall within ten days after receiving the writ, execute the same by restoring the plaintiff to the pos-

session of the premises, and shall levy and collect the costs, and make return as upon other executions. If the officer shall receive a notice from the justice that the proceedings have been stayed by the filing of a petition in error and undertaking, required by law, in the court of common pleas, he shall immediately delay all further proceedings upon the execution, and if the premises have been restored to the plaintiff, he shall immediately place the defendant in possession thereof, and return the writ, with his proceedings and costs taxed thereon.

When proceedings stayed.

SEC. 2. That original section number one hundred and thirty-eight, be and is hereby repealed: and this act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

To provide for canvassing the votes for Comptroller of the Treasury.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That immediately after the passage of this act, it shall be the duty of the governor, auditor and secretary of state, to canvass the votes cast at the annual election on the second Tuesday of October, 1858, for the office of comptroller of the treasury, and report the result of such canvass to each house of the general assembly; and also to cause the person found to have received the highest number of legal votes to be notified of his election forthwith.

Who to canvass and when, and report, &c.

To notify the officer elected.

SEC. 2. That the person so declared to be elected, shall, within ten days after such notice, execute his bond, in conformity with section 23 of "the act to further provide for the better regulation of the receipt, disbursement and safe-keeping of the public revenue," passed April 12, 1858.

His bond.

55 Laws, 92.

SEC. 3. At each subsequent election of comptroller of the treasury, the votes shall be ascertained at the same time, and declared in the same manner, as is provided in case of other state officers.

Subsequent election.

SEC. 4. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

To fix the time and provide for the holding of the Terms of the District Court and Court of Common Pleas in the several counties of the several Judicial Districts of the State of Ohio.

District Courts.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the terms of the district court, in and for the several counties of the state of Ohio, shall in the year of our Lord, one thousand eight hundred and fifty-nine, be held as follows, to-wit:

FIRST CIRCUIT.

Butler county, Tuesday, May 3.
Preble county, Tuesday, May 10.
Darke county, Friday, May 13.
Miami county, Tuesday, May 17.
Montgomery county, Monday, May 23.
Champaign county, Monday, May 30.
Clark county, Thursday, June 2.
Greene county, Monday, June 6.
Warren county, Thursday, June 9.
Clinton county, Tuesday, June 14.
Shelby county, Monday, June 20.
Auglaize county, Thursday, June 23.
Mercer county, Saturday, June 25.
Allen county, Monday, June 27.
Van Wert county, Wednesday, June 29.
Hardin county, Friday, July 1.
Logan county, Tuesday, July 5.
Marion county, Friday, July 8.
Union county, Tuesday, July 12.
Fulton county, Friday, July 15.
Williams county, Monday, July 18.
Defiance county, Thursday, July 21.
Paulding county, Saturday, July 23.
Henry county, Monday, July 25.
Wood county, Tuesday, July 26.
Seneca county, Monday, August 1.
Hancock county, Friday, August 5.
Putnam county, Monday, August 8.
Wyandot county, Thursday, August 11.
Crawford county, Monday, August 15.

SECOND CIRCUIT.

Lucas county, Tuesday, May 3.
Ottawa county, Friday, May 13.
Sandusky county, Monday, May 16.
Erie county, Friday, May 20.
Huron county, Friday, May 27.
Lorain county, Tuesday, September 6.
Medina county, Friday, September 9.
Summit county, Tuesday, September 13.
Cuyahoga county, Monday, September 19.

Knox county, Friday, June 3.
Richland county, Friday, June 17.
Ashland county, Thursday, June 23.
Wayne county, Monday, June 27.
Holmes county, Tuesday, July 5.
Coshocton county, Thursday, July 7.
Licking county, Wednesday, July 13.
Morrow county, Monday, July 25.
Delaware county, Monday, August 1.

THIRD CIRCUIT.

Washington county, Monday, April 11.
Meigs county, Friday, April 15.
Gallia county, Monday, April 18.
Scioto county, Thursday, April 21.
Pike county, Wednesday, April 27.
Lawrence county, Friday, April 29.
Madison county, Monday, May 2.
Franklin county, Thursday, May 5.
Pickaway county, Thursday, May 12.
Perry county, Friday, September 2.
Fairfield county, Monday, September 5.
Hocking county, Friday, September 9.
Athens county, Monday, September 12.
Vinton county, Wednesday, September 14.
Jackson county, Friday, September 16.
Adams county, Monday, September 19.
Brown county, Wednesday, September 21.
Clermont county, Friday, September 23.
Highland county, Thursday, October 6.
Fayette county, Thursday, October 13.
Ross county, Monday, October 17.

FOURTH CIRCUIT.

Tuscarawas county, Monday, May 23.
Harrison county, Thursday, May 26.
Jefferson county, Thursday, June 2.
Belmont county, Friday, June 17.
Monroe county, Monday, June 27.
Noble county, Friday, July 1.
Guernsey county, Tuesday, July 5.
Morgan county, Monday, July 11.
Muskingum county, Wednesday, July 13.
Stark county, Tuesday, May 3.
Columbiana county, Thursday, May 12.
Carroll county, Wednesday, May 18.
Portage county, Tuesday, September 13.
Lake county, Friday, September 16.
Geauga county, Monday, September 19.
Ashtabula county, Thursday, September 22.
Trumbull county, Monday, September 26.
Mahoning county, Monday, October 3.

FIFTH CIRCUIT.

Hamilton county, 3d Monday in April; 1st Monday in October.

Common Pleas Courts.

SEC. 2. That the terms of the courts of common pleas in and for the several counties of the state of Ohio shall, in said year one thousand eight hundred and fifty-nine, be held as follows, to wit:

First District.

FIRST JUDICIAL DISTRICT.

Hamilton county, January 3; June 6; November 7.

Second.

SECOND JUDICIAL DISTRICT.

First Subdivision.

Butler county, February 7; June 20; September 19.
Preble county, April 5; August 30; November 22.
Darke county, March 15; July 19; November 1.

Second Subdivision.

Champaign county, February 14; June 13; October 17.
Montgomery county, March 7; June 20; November 7.
Miami county, April 4; August 22; December 5.

Third Subdivision.

Clinton county, February 21; June 20; October 3.
Clark county, March 1; September 5, November 14.
Warren county, April 5; September 5; November 14.
Greene county, April 4; June 20; October 3.

Third.

THIRD JUDICIAL DISTRICT.

First Subdivision.

Union county, February 15; May 9; September 19.
Marion county, February 28; May 16; October 3.
Logan county, March 14; May 30; October 17.
Hardin county, April 4; September 5; November 14.

Second Subdivision.

Mercer county, January 25; April 5; September 13.
Van Wert county, February 8; April 12; September 20.
Allen county, February 15; May 3; October 24.
Auglaize county, March 8; May 24; October 10.
Shelby county, March 15; May 10; September 27.

Third Subdivision.

Paulding county, February 1; October 4.
Defiance county, February 7; May 10; October 18.
Henry county, February 15; May 17; November 1.
Fulton county, February 22; May 24; November 15.
Williams county, March 8; May 31; November 29.

Fourth.

FOURTH JUDICIAL DISTRICT.

First Subdivision.

Erie county, February 14; June 6; October 3.
Huron county, March 14; June 20; October 31.

Lucas county, February 21; May 30; November 14.
Sandusky county, February 14; June 6; October 24.
Ottowa county, March 15; June 21; November 1.

Second Subdivision.

Lorain county, February 15; May 17; October 25.
Medina county, March 1; May 31; November 8.
Summit county, March 22; June 14; November 22.

Third Subdivision.

Cuyahoga county, February 21; May 30; November 7.

FIFTH JUDICIAL DISTRICT. Fifth.

First Subdivision.

Adams county, January 11, May 24, October 25.
Brown county, January 18, May 31, November 1.
Clermont county, February 1, June 14, November 15.

Second Subdivision.

Ross county, March 1, June 7, November 15.
Fayette county, April 12, July 5, November 8.
Highland county, February 15, May 24, November 29.

Third Subdivision.

Pickaway county, March 8, June 14, October 25.
Franklin county, February 15, May 24, November 8.
Madison county, March 29, June 28, October 25.

SIXTH JUDICIAL DISTRICT. Sixth.

First Subdivision.

Delaware county, March 1, May 10, October 4.
Knox county, April 5, September 5, November 28.
Licking county, February 21, August 29, November 7.

Second Subdivision.

Ashland county, February 22, May 10, October 31.
Richland county, March 7, September 12, November 21.
Morrow county, February 14, April 25, October 17.

Third Subdivision.

Wayne county, March 7, September 12, November 21.
Holmes county, February 14, May 2, October 17.
Coshocton county, April 5, September 26, December 12.

SEVENTH JUDICIAL DISTRICT. Seventh.

First Subdivision.

Fairfield county, February 28, May 9, October 3.
Hocking county, March 14, May 23, October 31.
Perry county, March 28, June 6, October 17.

Second Subdivision.

Scioto county, February 14, May 9, November 14.
Pike county, February 28, May 23, October 24.
Lawrence county, March 7, June 27, October 31.

Jackson county, March 21, May 30, October 12.
Vinton county, March 31, June 15, September 26.

Third Subdivision.

Washington county, March 10, May 16, October 12.
Athens county, February 28, May 26, October 24.
Meigs county, March 21, June 6, November 3.
Gallia county, March 28, June 13, November 14.

Eighth. EIGHTH JUDICIAL DISTRICT.

First Subdivision.

Muskingum county, February 22, August 23, November 15.
Morgan county, March 29, August 2, October 4.
Noble county, March 22, August 30, November 8.

Second Subdivision.

Belmont county, March 22, August 9, October 13.
Monroe county, March 8, July 26, November 15.
Guernsey county, April 5, August 9, October 25.

Third Subdivision.

Jefferson county, February 22, August 2, October 25.
Harrison county, March 22, August 30, November 22.
Tuscarawas county, March 1, July 26, October 11.

Ninth. NINTH JUDICIAL DISTRICT.

First Subdivision.

Columbiana county, March 7, June 6, October 31.
Carroll county, February 14, May 23, October 12.
Stark county, February 28, May 30, October 24.

Second Subdivision.

Mahoning county, February 14, May 23, October 12.
Portage county, February 14, May 23, October 12.
Trumbull county, March 7, June 6, October 31.

Third Subdivision.

Lake county, February 14, May 23, October 12.
Geauga county, March 7, June 6, October 31.
Ashtabula county, March 28, June 20, November 21.

Tenth. TENTH JUDICIAL DISTRICT.

First Subdivision.

Seneca county, February 7, June 6, October 10.

Second Subdivision.

Crawford county, March 15, June 1, November 8.
Wyandot county, April 12, June 21, December 6.

Third Subdivision.

Putnam county, February 8, May 10, October 18.
Wood county, February 15, May 17, October 25.
Hancock county, March 1, May 24, November 8.

SEC. 3. That from and after the passage of this act two or more terms of the court of common pleas may be held at the same time in any subdivision of any judicial district of the state of Ohio, any law, practice or custom heretofore existing to the contrary notwithstanding.

Two or more terms in same subdivision at same time.

SEC. 4. This act shall take effect and be in force from and after the date of its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 9, 1859.

AN ACT

To amend the 186th section of an act entitled an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil courts, passed March 14, 1853.

Swan's R. S. 527 Curwen's R. S., 2,083; Curwen's Laws, c. 579.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That said section 186 shall be so amended as to read as follows: Sec. 186. Whenever a vacancy shall occur in the office of constable, in any township, by death, removal, resignation or non-acceptance of the person elected, or when there shall be a failure to elect, the township trustees shall appoint a suitable person to fill such vacancy until the next annual election for constable, and until a successor be elected and qualified; provided, however, that in any case when there shall be no constable in any township in any county in this state, the constable of any other adjoining township in said county shall and is hereby authorized to serve any process that any constable of said township is now or may be authorized to serve by law.

Vacancy in office of constable, how filled.

When there is no constable in a township, constable of adjoining township in same county may serve process.

SEC 2. That said original section one hundred and eighty-six is hereby repealed.

Sec. repealed

SEC. 3. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

February 14, 1859.

AN ACT

Curwen's R. S., 158.

To authorize the making of real estate indexes, and further to prescribe the duties of county commissioners and recorders in certain counties.

County commissioners in certain counties to cause certain general indexes o be made, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the county commissioners of all counties in this state, having a population of more than two hundred thousand inhabitants, to employ, at a reasonable compensation, to be fixed by them, and to be paid out of the county treasury upon the order of said commissioners, one or more competent persons, who shall, under the direction of the recorder, make out and complete general indexes from the records of all the real estate situate in such county, in addition to the alphabetical indexes now provided for by law, by placing under the heads of the original surveyed sections or parts of a section, squares, subdivisions, or lots, on the left page of such index book. 1st. The name of the grantor or grantors. 2d. Next to the right the name of the grantee or grantees. 3d. Then the number and page of the record, where the instrument is found recorded. 4th. The character of the instrument, to be followed by a pertinent description of the property conveyed by such deed, lease, or assignment of lease; and on the opposite page in like manner, all the mortgages and liens, or other incumbrances affecting said real estate.

How to be made.

Books therefor.

SEC. 2. It shall be the duty of the recorder to procure, at the expense of the county, suitable books for such indexes.

Such indexes to be kept up by recorder.

SEC. 3. As soon as the indexes, provided for in the first section of this act, shall be brought up and completed, it shall become the duty of the recorder of every such county to keep up said general indexes in the manner prescribed by the first section of this act, and to enter thereon, under the appropriate heads, all deeds, leases, assignment of leases, mortgages, liens, and other instruments affecting the title to such real estate, and in the order as they are filed in his office for record.

His fees therefor.

SEC. 4. For every entry on such general index of any lot, piece or parcel of land, the recorder shall be allowed the sum of five cents, to be paid by the person leaving such instrument of conveyance or transfer for record.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

February 14, 1859.

AN ACT

Supplementary to an act entitled "An act defining certain duties of clerks, sheriffs, and prosecuting attorneys," passed February 26, 1842.

Curwen's R. S. 870. Swan's R. S. 425.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of every clerk of every court of record to receive from the hands of the sheriff, or other officer of the court, all costs taxed upon any writ issued from the court, such as appraisers' fees, printers' fees, or any other fees necessarily incurred in the execution of any such writ, and pay the same over to the persons entitled thereto on demand; and it shall be the duty of the sheriff, or other officer of court, to tax such costs, collect and pay the same over to the clerk of the court from which the writ issued, giving the name of each individual, and the amount which each is entitled to receive.

Clerk to receiv all costs and fee taxed upon writs and pay over to person entitled.

Sheriff, &c., to tax, collect and pay over such costs to clerk, giving names and amount.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

February 14, 1859.

AN ACT

To amend the 314th section of the Code of Civil Procedure.

Swan's R. S.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the 314th section of the act entitled "An act to establish a code of civil procedure," be so amended as to read as follows: Sec. 314. The following persons shall be incompetent to testify: 1st. Persons who are of unsound mind at the time of their production for examination. 2d. Children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly. 3d. Husband and wife, for or against each other or concerning any communication made by one to the other, during the marriage, whether called as a witness while that relation subsisted, or afterwards, except in actions where the wife, were she a feme sole, would be plaintiff or defendant; in which action the wife may testify. Either the husband or wife may testify, but not both. 4th. An attorney, concerning any communication made to him by his client, in that relation, or his advice thereon, without the client's consent. 5th. A clergyman or priest, concerning any confession made to him in his professional character, in the course of discipline enjoined by the church to which he belongs, without the consent of the person making the confession. 6th. No person who would if a party be incompetent to tes-

Curwen's R. S. 1986; Curwen's Laws, c. 577.

Who incompetent to testify.

tify under the provisions of section 313, shall become competent by reason of an assignment of his claim.

Sec. repealed.

SEC. 2. That section 314 of the said act to establish a code of civil procedure, as said section was amended by the act of April 12th, 1858, be, and the same hereby is repealed.

SEC. 3. This act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

February 14, 1859.

AN ACT

To prohibit watchmen and other police officers from claiming witness fees in certain cases.

Cases specified.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That no watchman or other police officer shall be entitled to any witness fees in any case prosecuted under any criminal law of the State of Ohio, or any ordinance of a city of the first or second class, before any police judge or mayor of any such city, justice of the peace, or other officer having jurisdiction in such cases.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

February 14, 1859.

AN ACT

To amend the act entitled "An act to fix the salaries of judges in certain cases."

Additional salary to Common Pleas judges hereafter elected, in certain counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all the counties of this state, having a population of two hundred thousand inhabitants or upwards, the judges of the court of common pleas hereafter elected therein, shall receive, in addition to the salary now

paid to them out of the state treasury, the sum of one thousand dollars per annum, to be paid to them out of the county treasury, in the same manner and at such times as is provided by law for the payment of the salaries of the judges out of the state treasury: provided, that if the salaries of judges of the court of common pleas should be increased by the state, then the payment out of the county treasury shall be diminished in proportion, so that such judges shall not in any way receive more than twenty-five hundred dollars per annum salary. How paid. Proviso.

SEC. 2. That the first section of the above recited act, passed April 12th, 1858, be and the same is hereby repealed. 55 Laws, 127.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

AN ACT

Making partial appropriation to meet the current expenses of the Northern Ohio Lunatic Asylum for the year 1859.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there is hereby appropriated, out of the funds in the treasury of this state applicable to general revenue purposes, for current expenses of the Northern Ohio Lunatic Asylum for 1859, the sum of five thousand dollars. N. Lunatic Asylum.

SEC. 2. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

AN ACT

To amend section sixty-four of an act entitled "An act to provide for the reorganization, supervision and maintenance of common schools," passed March 14, 1853. Curwen's R. S. 2:26; Curwen's Laws, c. 639. Swan's R. S. 851

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixty-four of the act aforesaid as said section is now amended, shall be so amended as to Debts of districts to be provided for.

read as follows: Sec. 64. The debts which have heretofore been contracted by any school district for school purposes shall be provided for by the estimate of the proper school boards created under the provisions of this act, and action may be brought against such boards to recover the same. When any judgment shall be obtained against any such school board, it shall be the duty of said board to make an estimate for the district or sub-district, as said board may deem equitable, of the amount required to satisfy such judgment, with interest and costs. Said amount so estimated shall be certified to the county auditor, shall be assessed by him upon the district or sub-district, as the case may be, and shall be collected and paid out in the same manner as other school taxes, upon the order of the clerk of said board upon the township treasurer, to satisfy the judgment aforesaid.

Action therefor.

Judgment against school board, how to be paid

Sec. repealed.

SEC. 2. That section sixty-four aforesaid be and the same hereby is repealed.

SEC. 3. This act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

AN ACT

Curwen's R. S., 2485; Curwen's Laws, c. 70. Swan's R. S., 440. 54 Laws, 197.

To amend the seventh section of the act entitled "an act for the prevention of gaming," passed March 12, 1831, as amended by the act of April 17, 1857, entitled "an act to amend an act entitled an act more effectually to prevent gambling," passed January 17, 1846.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the seventh section of the act entitled "an act for the prevention of gaming," passed March 12, 1831, as amended by the third section of the act passed April 17, 1857, entitled "an act to amend an act entitled an act more effectually to prevent gambling," passed January 17, 1846, be so amended as to read as follows: Sec. 7. That if any person shall play at any game whatsoever for any sum of money, or other property of any value, or shall make any bet or wager for any sum of money, or other property of value, every such person shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, or be imprisoned in the county jail not less than ten days nor more than six months.

Playing games for money or property, or betting.

Penalty.

SEC. 2. That the third section of the act passed April 17, 1857, entitled "an act to amend an act entitled an act more effectually to prevent gambling," passed January 17, 1846, be and the same is hereby repealed. Sec. repealed.

SEC. 3. This act shall take effect from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 21, 1859.

AN ACT

Curwen's R. S., 2363; Curwen's Laws, c. 40. Swan's R. S., 489.

To amend section fourteen of an act entitled "an act relating to juries," passed February 9th, 1831, and took effect June 1st, 1831.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section fourteen of an "act relating to juries," passed February 9th, 1831, be so amended as to read as follows: Sec. 14. That if there shall be empanelled, for the trial of any cause, any petit juror who shall have been convicted of any crime which by law renders him disqualified to serve on a jury; or who has been arbitrator on either side relating to the same controversy; or who has an interest in the cause; or who has an action depending between him and either party; or who has formerly been a juror in the same cause; or who is either party's employer, employee, counselor, agent, stewart, or attorney, or who is subpœnaed in the cause as a witness; or who is akin to either party; or any person who shall have served once already on a jury as a talesman in the trial of any cause in the same court during the term, he may be challenged for such causes, in either of which cases the same shall be considered as a principal challenge, and the validity thereof be tried by the court; and any petit juror who shall be returned upon the trial of any of the causes hereinbefore specified, against whom no principal cause of challenge can be alleged, may, nevertheless, be challenged on suspicion of prejudice against, or partiality for either party, or for want of a competent knowledge of the English language, or any other cause that may render him at the time an unsuitable juror; and the

Principal causes for which a petit juror may be challenged.

To be tried by the court.

Other causes of challenge.

To be tried by the court.

Sec. repealed.

validity of such challenge shall be determined by the court; and each party may peremptorily challenge two jurors.

SEC. 2. The said section fourteen is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

Curwen's R. S., 565.

For the punishment of certain offenses therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall receive or buy any bank bill or bills or promissory note or notes, bill of exchange, order, receipt, draft, warrant, check or bond, given for the payment of money in amount less than thirty-five dollars which have been stolen, knowing the same to be stolen, with intent to defraud the owner thereof, every person so offending shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county and be fed on bread and water only, not exceeding thirty days, at the discretion of the court.

Receiving or buying stolen bank bills or notes, &c. of less value than $35, &c.

SEC 2. That if any person shall receive or buy any goods or chattels of less value than thirty-five dollars, that shall have been stolen or taken by robbers, knowing the same to be stolen or taken by robbers with intent to defraud the owner, every person so offending shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, for a term not exceeding thirty days, at the discretion of the court.

Or goods or chattels stolen, &c., of less value than $35, &c.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

To repeal the ten per cent. law, passed March 14, 1850.

Swan's R. S., 481. Curwen's R. S., 1569; Curwen's Laws, c. 472.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act passed March 14, 1850, entitled "an act to amend the act entitled an act fixing the rate of interest passed January 12, 1824, and all other laws on that subject," be and the same is hereby repealed.

Act repealed.

SEC. 2. This act shall take effect and be in force from and after the first day of April, 1859.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

Supplementary to the several acts fixing the fees of sheriffs, coroners and constables.

Swan's R. S., 412, 416, 417. Curwen's R. S., 305.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in addition to the fees now by law allowed to sheriffs, coroners and constables, upon executions and attachments, it shall be lawful for the court to which an execution, order for the delivery of property in replevin, or order of attachment is returnable, to allow the officer returning such execution, order for the delivery of property in replevin, or order of attachment, a reasonable compensation for any extraordinary trouble or expense incurred by such officer, in the removal or preservation of any personal property levied on under said writ or order, which amount, when so allowed, shall be taxed in the cost: Provided, that such officer shall not in any case be allowed more than one dollar *per diem* each for the services of the person or persons employed in the removal or taking care of said property; and provided further, that no allowance shall be made, unless it shall appear to the court that the extraordinary services for which such allowance is asked, were necessary for the proper execution of such writ.

Additional compensation to sheriffs, coroners and constables, in certain cases.

SEC. 2. This act shall take effect and be in force from and after the date of its passage

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

To amend an act to provide for the execution of deeds for land sold by the state of Ohio, and for other purposes, passed April 16, 1857.

54 Laws, 161.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section five of the act to provide for the execution of deeds for land sold by the state of Ohio, and for other purposes, passed April 16, 1857, be amended so as to read as follows, viz.: Sec 5. Whenever by satisfactory evidence, it shall appear to the governor and attorney general that any error has occurred in any deed heretofore or hereafter executed and delivered in the name of the state under the laws thereof, or in the certificate of any public officer, upon which a conveyance, if correct, would be properly required from the state, it shall be the duty of the governor to correct the said error by the execution of a correct and proper title deed, according to the intent and object of the original purchase or conveyance to the party entitled to the same, his or her heirs or legal assigns as the case may require, receiving from said party a release in due form, to the state, of the property erroneously conveyed.

Errors in deed of state, or certificate of purchase to be corrected by governor.

Sec. repealed.

SEC. 2. That section five of the act to which this is an amendment, be and the same is hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

Relating to the redemption and cancellation of the securities for the funded debt of counties in this State.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it is hereby made the duty of the county auditor of any county in this state owing a funded debt bearing interest payable at stated periods, to draw at the proper times, his warrant upon the treasurer of his county for the payment of the gross sum of such installments of principal or interest as may be then due, or for such sum of money in the treasury as may be applicable to that purpose, and deliver the same to the county treasurer of such county, and it is hereby made the duty of such treasurer, upon the receipt of such warrant, to make payment of the principal and installments of interest of such debt at the times and places of payment specified in the security therefor, out of any money in his hands applicable to that use; and upon payment of the principal sum or installments of interest as herein provided, the treasurer shall take up and hold the

Auditor's duty as to drawing warrant upon treasurer.

Treasurer's duty as to payment.

obligation or interest warrant so paid till the same shall be cancelled as herein provided, but if the interest be provided for in the body of the obligation and not by separate warrants therefor, he shall indorse the payment thereof on the obligation and take from the holder a separate receipt, specifying the date, amount, number and time of maturity of such obligation, and the date of the maturity of the installment so paid, and amount and date of the payment.

Same.

SEC. 2. If from any cause such debt or installments of interest be not paid at the time and place of maturity thereof as aforesaid, it shall be the duty of the county treasurer, at any time afterwards, to pay the same as funds in his hands applicable to that use may admit; but if the treasurer was ready with funds at the time and place of maturity thereof to make payment of any such debt or any installment of interest thereon, and the holder of the evidence thereof did not have the same then and there present and in readiness to be surrendered, or to have the payment indorsed thereon as aforesaid, the county shall not thereafter be bound to pay any interest thereon, till payment shall have been afterwards demanded at the office of the county treasurer, and the same refused.

When interest ceases and till when.

Treasurer's funded debt book.

SEC. 3. It shall be the duty of the county treasurer aforesaid, on or before the first Monday of June next after this act takes effect, to enter in a book to be provided for that purpose, at the expense of the county, to be entitled funded debt, to the credit of funded debt, the amount of money in gross then in his hands applicable to the payment of such debt, and shall, in like manner, on the first Monday of each succeeding month, enter in said book to the credit of the same account, all sums of money received by him during the preceding month, applicable to the payment of such debt, specifying from what sources the same were received, and shall, at the proper dates, enter in the same book to the debit of the same account, all sums disbursed by him out of said fund, specifying to whom and on what account, which book shall be open to the inspection of all persons interested in said fund, at all times, and shall be kept in the treasurer's office, and delivered over with the office to his successor in office.

The auditor to furnish treasurer with abstract of funded debt.

SEC. 4. It shall be the duty of the county auditor of each county in this state owing a funded debt as aforesaid, to furnish the county treasurer of such county, without unnecessary delay after the passage of this act, and from time to time afterwards, as the same may be created, an abstract of the funded debt of such county, specifying the dates, amounts, numbers, times of maturity, of principal, rates and times of maturity of interest installments thereon, and when payable, and the treasurer shall open such accounts thereon in the book to be provided as aforesaid, as may be expedient and proper to show at all times the amonnt and several classes of the funded debt of the county, the rate of

His account thereof.

interest accruing thereon, the payments made on account of the same, and the amount due and unpaid thereon.

Treasurer's duty at stated settlements.

SEC. 5. It shall be the duty of the treasurer at his stated settlements, to produce and exhibit to the county commissioners and auditor, all obligations for principal, debt and interest warrants, by him redeemed pursuant to the requirements of this act, and all receipts for interest paid in cases in which there are no separate warrants, and after the same shall be compared with his accounts, and the accounts corrected so as to correspond with the vouchers so produced, said obligations for principal and interest warrants, shall be cancelled in such manner as to prevent their being used or put into circulation, and with the vouchers for interest paid other than upon warrants, shall be filed and preserved in the office of the county auditor, and the county commissioner shall have the power at any time to require the treasurer to surrender for cancellation, as aforesaid, the obligations and warrants by him redeemed, subject to his right to be credited therewith, according to right and justice; and the treasurer shall have the right at any time, on reasonable notice, to require the county commissioners and auditor to receive said obligations and warrants for cancellation.

His accounts and vouchers.

Cancellation of obligations, &c.

Treasurer's compensation and exchange.

SEC. 6. County treasurers shall be allowed for receiving and disbursing all moneys coming into their hands, on account of the creation of a funded debt of any county, one-half of one per cent. on all such sums, and no more, and for the collection and disbursement of all moneys raised by taxes for the payment of the principal and interest, or either, of the funded debt of any county, they shall be allowed one-half of one per cent., and no more, on all such sums so collected and disbursed, together with all necessary and proper exchange, to be paid out of the funds to which this act relates, to be settled and allowed to them by the county commissioners and auditor.

SEC. 7. This act shall take effect and be in force from and after the passage thereof.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

Swan's R. S., 955. Curwen's R. S., 1835; Curwen's Laws, c. 564.

Supplementary to an act to provide for the organization of cities and incorporated villages, passed May 3, 1852.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the council of any city or incorporated

village within this state shall have power to provide that when a fine shall be imposed for the violation of the ordinances of any such city or incorporated village, or any of them, and the same is not paid, the party convicted shall, by order of the mayor or other proper authority, or on process issued for the purpose, be committed until such fine and the costs of prosecution shall be paid or the party discharged by due process of law; they shall also have power to provide that any person or persons convicted of a repeated and willful violation of any ordinance who shall refuse or neglect to pay the fine imposed and the costs of prosecution, shall, by like order or process, be imprisoned and kept in confinement for any time not exceeding thirty days; they shall have power to provide that all vagrants, common prostitutes, and persons disturbing the peace of such city or incorporated village, shall, on conviction thereof, be punished by imprisonment for such period as may be provided by ordinance, not exceeing sixty days.

Power of city council as to imprisonment of persons for non-payment of fines, &c.

And of vagrants, prostitutes, and other disturbers of public peace.

SEC. 2. When any person or persons shall be convicted under the provisions of this act, such person or persons shall be imprisoned in the jail of the city or incorporated village where the person or persons shall be so convicted, if such city or incorporated village shall be provided with a jail, for the use of such city or incorporated village, and any city or incorporated village not provided with a jail, shall be allowed for the purpose of imprisonment authorized by law, the use of the jail of the proper county until said city or incorporated village shall have efficiently provided by appropriate ordinances and contracts a city or village prison or workhouse, at the expense of said city or incorporated village, and all persons so imprisoned in the county jail shall be under the charge of the sheriff of the county, who shall receive and discharge such persons in such manner as shall be prescribed by the ordinances of the city or incorporated village, or otherwise by due course of law; Provided, however, that the county commissioners of any county, may, at their discretion, on giving to the city council of any city of the first class written notice of their intention so to do, at least ninety days previous thereto, prohibit the use of the county jail for the purpose hereinbefore authorized; Provided, further, that if within ninety days after such notice shall have been given, the city council of such city shall efficiently provide by the appropriate ordinances and contracts for the immediate erection of a city prison, house of correction, or workhouse, for the purposes of imprisonment authorized by this act, the said city shall continue, notwithstanding such notice and prohibition, to have the use of the county jail for the purpose herein authorized, until such city prison, house of correction, or workhouse, shall be erected and ready for use.

Imprisonment to be in jail of city, if there is one—if not, in county jail, until, &c.

Persons committed to county jail to be in charge of sheriff.

Power of county commissioners to prohibit the use of county jail in cities of first class. Proceedings in such case.

When and how long city may continue to use county jail.

SEC. 3. That an act entitled an act to amend an act to 53 Laws, 185.

54 Laws, 110.

provide for the organization of cities and incorporated villages, passed May 3, 1852. passed April 8, 1856, and an act supplementay thereto, passed April 14, 1857, be and the same are hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

Swan's R. S., 197
Curwen's R. S., 1898; Curwen's Laws, 1130.

Supplementary to an act to provide for the creation and regulation of incorporated companies in the State of Ohio, passed May 1, 1852.

Power of companies to fix day of annual meetings.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be competent for incorporated companies heretofore organized, and that may be hereafter organized under the provisions of the act to provide for the creation and regulation of incorporated companies in the state of Ohio, and the amendatory and supplementary acts, to appoint and fix the day on which the annual meetings of such companies, respectively, shall be held, and at which the business now authorized by law or the by-laws of the company, shall be transacted.

Curwen's R. S., 1898; 54 Laws 72.

As to fixing the day.

SEC. 2. When a day other than the first Monday in January shall be appointed and fixed upon for holding the annual meeting of any company, at the time of the organization thereof, the same shall be stated in the certificate of organization, and when any organized company shall elect to change the day for holding the annual meeting thereof, the same may be done by vote of the stockholders, at any annual meeting of the company; and shall forthwith be certified in writing subscribed by the presiding officer, and secretary or clerk of the company, and the certificate thereof so made shall, within thirty days thereafter, be filed in the proper office, as required by law in cases of original certificates of organization.

As to changing the day fixed.

SEC. 3. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

Further to provide for the care and distribution of the public arms.

Curwen's R. S., 359, 428, 1241; Curwen's Laws, 448, 462, 797.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act the public arms of the state shall be issued by the quarter-master general to regularly organized and uniformed companies only, but shall not be delivered, until bond with sufficient sureties for the proper care and preservation thereof, be deposited in his office; which bonds shall be in such form and contain such conditions as may be prescribed by the governor.

Public arms to be issued to regularly organized and uniformed companies only.

Bond therefor.

SEC. 2. That it shall be the duty of the quarter-master general, and he is hereby authorized, to require of companies now in possession of public arms, to deposit with him bonds for the care and preservation of such arms, agreeable to the provisions of the first section of this act; and in case of neglect to give the bonds aforesaid within six months after being notified to do so, the quarter-master general shall cause such arms to be returned to the state arsenal, or transferred to other companies.

Bond to be given for arms now in possession of such companies.

Effect of neglect so to do after notice.

SEC. 3. That the public arms not in the possession of any organized and uniformed company shall be subject to the order and control of the quarter-master general for transfer to companies or return to the state arsenal; and majors general and brigadiers general shall have like authority within their respective commands; but in all cases of transfer, bond shall be given and deposited as required by the preceding sections of this act.

Arms not in possession of such companies.

Bond.

SEC. 4. That the governor shall have authority to prescribe rules and regulations for the issue, preservation and transfer of the public arms, and such rules and regulations, not inconsistent with the laws of the state, shall be obligatory upon all military officers and organizations in the state, and all others having possession or custody of the public arms.

Rules and regulations as to public arms.

Their binding force.

SEC. 5. The report of the quarter-master general shall be made to the adjutant general, and the substance thereof included in the annual report of the adjutant general to the governor.

Report of quarter-master general.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

Curwen's R. S., 2030; Curwen's Laws, 1306.

To amend section one hundred and sixty-five of an act entitled an act of the jurisdiction and procedure before ju tices of the peace, and of the duties of constables in civil courts, passed March 14, 1853.

Swan's R. S., 524.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one hundred and sixty-five of the act to which this is an amendment, be and the same is hereby amended so as to read as follows: Sec. 165. It shall be lawful for any justice of the peace of any township of this state to issue executions on any judgments on the docket of any justice of his township, who may be unable to issue said executions in consequence of sickness, absence, or any other cause. The execution must be directed to a constable of the county, and subscribed by the justice by whom the judgment was rendered, or by his successor in office, or by the justice in whose hands the docket of any justice of the township has been placed, in consequence of the justice who may have rendered judgment being unable to issue in consequence of sickness, absence, or any other cause; and must bear date, the day of its delivery to the officer to be executed. It must intelligibly refer to the judgment, by stating the names of the parties, and the name of the justice before whom, and of the county and township where, and the time when, it was rendered; the amount of the judgment, and if less than the whole is due, the true amount thereon, as follows: 1st. If it be a case where the defendant cannot be arrested, it must direct the officer to collect the amount of the judgment out of the personal property of the debtor, and pay the same to the party entitled thereto. 2d. If it be a case where any of the judgment debtors are certified on the docket as surety, it shall command that the money be made of the personal property of the principal debtor, and for want thereof, of the personal property of the surety. In such cases the personal property of the principal, subject to execution within the jurisdiction, shall be exhausted before any of the property of the bail shall be taken in execution. 3d. If it be a case where the defendant may be arrested, in addition to the foregoing, it must direct the officer, if sufficient property of the defendant, subject to the execution, cannot be found to satisfy the judgment, that he arrest the debtor and commit him to the jail of the county, until he pay the judgment or be discharged according to law, unless the execution be accompanied by an order of arrest, as provided in sections twenty-six and twenty-seven. 4th. It must, in all cases, direct the officer to make return of the execution, and a certificate thereon, showing the manner in which he has executed the same, in thirty days from the time of his receipt thereof.

Execution, by whom issued.

To whom directed and by whom subscribed.

Its requisites.

SEC. 2. That section one hundred and sixty-five be and is hereby repealed.

Sec. repealed.

SEC. 3. This act to be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

To amend section fifty-four of the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852.

Curwen's R. S., 1850; Curwen's Laws, 1086.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section fifty-four of the act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, be so amended as to read as follows: Section 54. It shall be lawful for any council of any incorporated village or city, to provide for the immediate arrest upon view, and without warrant, by the proper officer, of any person found violating any ordinance made to preserve the peace, quiet or good order of such corporation, or any ordinance providing for the safety, health, comfort, or for the protection of the property of the citizens of such corporation. And any person so arrested shall be taken forthwith before the mayor, or some justice of the peace of the county, for trial. The council may also provide that when any fine is imposed for the violation of any ordinance, the offender may be committed until the fine and costs of prosecution shall be paid, or until there shall be a discharge by due course of law.

Swan's R S., 967.

Arrests on view, &c.

Trial.

Committal for fines and costs.

SEC. 2. That the said original section fifty-four be and the same is hereby repealed, and that this act take effect from and after its passage.

Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

Appropriating money for the repair of existing breaches on the south division of the Ohio canal.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there is hereby appropriated out of any

Appropriation.

money in the treasury derived from public works and not otherwise appropriated, the sum of thirty-three hundred dollars, for the purpose of repairing breaches now existing on the south division of the Ohio canal, to be drawn according to law by the checks of the member of the board of public works in charge of division number two, of the public works of Ohio.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

To exempt from sale and execution certain property therein named.

Curwen's R. S., 607, 1021.

Property kept and used to extinguish fires, exempted.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That all fire engines, hose, hose carriages, hooks, ladders, and fire buckets, together with any vehicle, machinery of any kind, used or kept to be used by any incorporated city, village, or fire company, for the purpose of extinguishing fire, be and the same is hereby exempt from execution and sale to satisfy any judgment, decree, or debt, arising from contract or otherwise: provided, that if any incorporated city, village, or fire company that is the proper owner of any such property above specified, do voluntarily create a lien thereon by bill of sale or mortgage, such lien shall be valid in law, and not affected by any of the provisions of this act: provided, however, that the provisions of this act shall not apply to, or in any way affect the remedy upon any contract now existing, or judgment rendered upon any contract in any court of this state.

Proviso as to lien by bill of sale or mortgage and as to existing contracts or judgments.

SEC. 2. This act to be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

To amend the act entitled "an act to amend the several acts incorporating mutual fire insurance companies in the State of Ohio," passed March 27, 1841.

Curwen's R. S. 789. Curwen's Laws, 635. Swan's R. S. 248.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of the above recited act be so amended as to read thus: Sec. 2. It shall be the duty of the court of common pleas in each county of this state in which the office of any mutual fire insurance company may be situated, on the application of any three or more persons interested to appoint one or more suitable persons, resident in such county, to make a thorough and careful examination into the affairs and condition of such company. Such person or persons so appointed shall have power to require the production of all books and papers belonging to such company or pertaining to their business, and to examine under oath all the officers, servants or agents of such company, or any other person, touching its affairs and condition; which oath may be administered by any person appointed to make such examination. And the person or persons making the examination shall report thereon, fully setting forth the condition of the company, to the court appointing them, at its next regular term, and shall transmit a copy of such report to the speaker of the house of representatives forthwith, if the legislature be in session, or if not, then at the session next thereafter ensuing; and such examiners shall each receive two dollars per day for the time actually employed in making the examination and report, to be paid out of the treasury of the company so examined: Provided that such examination shall not be had oftener than once in any six months.

Visitation of mutual fire ins. co., and report, &c.

SEC. 2. That in case any such officer, servant, agent or other person shall fail or refuse to appear before such person or persons so appointed as aforesaid, or shall refuse to testify, or to produce before such examiner or examiners any book or papers in his, her or their possession, and required to be produced, such failure or refusal shall be deemed a contempt, and shall forthwith be reported to the court appointing such examiner or examiners, and said court shall punish the person or persons in contempt, in the same manner and to the same extent as though such contempt had been committed against said court.

When persons shall be punished for contempt &c., and how

SEC. 3. Original section two of the act to which this is amendatory, is hereby repealed. This act shall take effect upon its passage.

Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

Curwen's R. S. 2204.
Curwen's Laws, 1412.

AN ACT

To fix the compensation of county commissioners.

Per diem and mileage, and how paid.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That each county commissioner shall be allowed two dollars and fifty cents per day, for each and every day that he may be employed in his official duties, and five cents per mile in going to and returning from the county seat for each regular or called session, not exceeding in the whole eight sessions in any one year, to be paid out of the county treasury upon the warrant of the county auditor, except in counties in which, by the last federal census, the population amounted to one hundred thousand or upwards, in which counties each commissioner shall be allowed five dollars per day for his services, to be paid out of the county treasury as aforesaid.

53 laws 111.

SEC. 2. That the act entitled "an act to amend the act to regulate the fees of officers in civil and criminal cases," passed April 8, 1856, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

Curwen's R. S. 2006.
Curwen's Laws, 1252.

AN ACT

Authorizing courts to order abstracts of legal advertisements to be published.

When courts may order abstracts of legal advertisements to be published, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in addition to the advertisement, in all cases where legal advertisements are now required by law to be published in some newspaper, the several courts of this state may, when the judges shall deem it proper, order that an abstract of such legal advertisements be published in some one of the journals published in the county, the fee for which shall be taxed in the case, as other costs: Provided, however, that such fee shall not exceed one dollar for each case.

Fee therefor.

SEC. 2. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

To amend section 415 of the code of civil procedure, Swan's Statutes, page 674.

Curwen's R. S. 2002; Curwen's Laws, 1928. Swan's R. S. 674

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section four hundred and fifteen of the act entitled "an act to establish a code of civil procedure," be so amended as to read as follows: Sec. 415. When a judgment is recovered against one or more persons, jointly indebted upon contract, promissory note, or other instrument in writing, those who were not originally summoned may be made parties to the judgment by action. Provided, however, an action may be brought upon any contract, promissory note or other instrument in writing against any one or more of the joint makers or joint obligors to any such contract, promissory note, or other instrument in writing, notwithstanding judgment has been or may hereafter be obtained, in any court in any of the states of this Union, other than the state of Ohio, against one or more of said joint makers or joint obligors to any such contract, promissory note or other instrument, and said action shall proceed upon said instruments, in all respects, as though no judgment had been obtained against any one of the makers or obligors thereof. Provided, further, that no action shall be maintained upon any such obligation against any one against whom an action has been prosecuted to final judgment.

Joint debtors not originally summoned may be made parties to judgment by action.

When action may be brought on the contract against such debtors.

SEC. 2 That said section four hundred and fifteen be and the same is hereby repealed.

Section repealed

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

To provide for taxing in cost bills the expense of procuring transcripts and records.

Curwen's R. S. 2024 and 527; Curwen's Laws, 1250.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That when in any proceeding in error, or other civil action or proceeding, it shall be necessary to procure a transcript of any judgment or proceeding or exemplification of any record as evidence in such action or for any other purpose, the expense of procuring such transcript or exemplification shall be taxed in the bill of costs and recovered as in other cases.

When expense of transcript of judgment &c. to be taxed in cost bill.

SEC. 2. This act shall take effect and be in force from and after the date of its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

Curwen's R. S. 149; Curwen's Laws, 786; 54 Laws, 199.

To authorize courts to give effect to the intention of parties and officers by curing defects, omissions and errors in instruments and proceedings.

Defects, omissions and errors in instruments and proceedings to be cured by the court giving effect to the intention of parties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases wherein any officer or officers, party or parties, person or persons, or body corporate, or persons intending and undertaking to become a body corporate has heretofore made or may hereafter, by reason of inadvertence or otherwise, make any omission, defect or error in any instrument in writing, or in any proceeding, whereby the same shall not be in strict conformity with the laws of this state, it shall be competent for the courts of this state, and they are hereby authorized to give full effect to all such instruments and proceedings according to the true and manifest intention of the parties thereto.

Petition therefor

SEC. 2. That whenever any such error, omission or defect, shall have occurred or may hereafter occur in any instrument or proceeding, which is required to be made a matter of record, it shall be competent for any party or parties, person or persons, body corporate, or persons intending and undertaking to become a body corporate, having or claiming an interest in the correction of such error, omission or defect, to file his, her or their petition in any court of common pleas having jurisdiction in the premises, setting forth particularly the error, defect or omission complained of, and ask an order of such court for the correction thereof;

Notice of the application.

and in all cases where such application is made by any body corporate, or by persons intending and undertaking to become a body corporate, such court upon being satisfied that notice of such application, specifying the error, defect or omission complained of, and of the time and place of hearing the same has been duly published for six consecutive weeks in some newspaper in general circulation in the county where such application may be made, and in all other cases whenever the party or parties interested have been duly brought before the court in the manner prescribed by law for making service in civil actions, and upon being satisfied that such mistake, error or omission has been made,

shall grant and make an order to correct the same, which order shall be filed in the office in which such record is required to be kept, and from and after such filing the said record and the order correcting the same shall be received as evidence in all cases, in all courts the same as if no such error, omission or defect had ever existed.

Order of correction—when to be filed—its effect as evidence.

SEC. 3. That when the record to be corrected is in any way connected with any body corporate, the proceedings mentioned in the last preceding section shall be had in the court of common pleas of the county wherein the principal office of such corporation is located, and in all other cases the same shall be had in the county wherein such record is kept.

Where proceedings by body corporate to be had.

Other cases.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

Supplementary to an act entitled "an act of the jurisdiction and procedure before justices of the peace, and of the duties of constables in civil courts," passed March 14, 1853.

Swan's R. S. 500 Curwen's R. S., 2071. Curwen's Laws, 1297.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if the defendant in any action before the justice shall appeal from any judgment rendered in favor of the plaintiff in such action, and after having filed his transcript and caused such appeal to be docketed, according to the provisions of the act to which this is supplementary, the plaintiff in such action shall fail to file a petition, or otherwise fail to prosecute the same to final judgment, it shall be lawful for the defendant in such action to file his answer setting up whatever claim or demand he may have against such plaintiff, and may prosecute the same to final judgment, in which case if the defendant shall recover judgment against the plaintiff, all costs which have accrued before the justice, and in the appellate court, shall be adjudged against such plaintiff, or he may, on motion to the court, suffer judgment to be entered against him for the amount of judgment below, in which case all costs which have accrued before the justice and in the appellate court, shall be adjudged against such defendant.

Proceedings by defendant in appellate court on his appeal from justice's judgment, when plaintiff fails to file petition, etc.

Effect as to costs if defendant recovers judgm't against plaintiff in appellate court.

Applies to appeals now pending, etc.

SEC. 2. This act shall take effect and be in force from and after its passage, and its provisions shall apply to all appeals now pending.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
March 14, 1859. *President pro tem. of the Senate.*

AN ACT

Swan's R.S. 726 Curwen's R S. 2351, Curwen's Laws, 205.

To amend section twenty-two of an act passed March 7, 1831, entitled "an act directing the mode of trial in criminal cases."

Subpœnas for witnesses in criminal cases to issue to any county; how directed, served and returned.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twenty-two of an act entitled "an act directing the mode of trial in criminal cases," be and the same is hereby amended so as to read as follows: Sec. 22. In all prosecutions for crimes and offenses, it shall be the duty of the clerk, upon a præcipe being filed therefor, to issue writs of subpœna for any person in this State, whose testimony may be deemed material on the trial, and may direct the same to the sheriff or coroner of the county of which he is clerk, or of any county of this State, where said witness may reside or be found, who shall serve and return said writ as in other cases, or such officer, by writing indorsed on said writ, may depute any disinterested person to serve and return the same.

SEC. 2. That section twenty-two of the above recited act be and the same is hereby repealed.

Sec. repealed.

SEC. 3. That this act be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

Swan's R. S. 197. Curwen's R. S., 1877. Curwen's Laws, 1110.

Supplementary to an act entitled "an act to provide for the creation and regulation of incorporated companies in the State of Ohio," passed May 1, 1852.

Association for the improvement of horses, asses, mules cattle, sheep and swine.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any number of persons, as named in the first section of the act to which this act is supplementary, associate themselves together for the purpose of engaging in the improvement of horses, asses, mules, cattle, sheep or swine, they shall, under their hands and seals, make a certificate specifying the amount of capital stock

necessary, the amount of each share, the name of the place where such association shall be located, the name and style by which such association shall be known; which said certificate shall be acknowledged, certified and forwarded to the secretary of state, recorded and copied, as is provided in the second section of the act to which this act is supplementary; and the said certificate shall also be recorded by the recorder of every county in which said company may be formed to carry into effect the provisions of this act, in a book to be kept for said purpose, and when so incorporated, they are hereby authorized to carry out the objects named in said certificate of incorporation, and by the name and style provided in said certificate, shall be deemed a body corporate, with succession; and they and their associates, successors and assigns, shall have the same general corporate powers as are provided in the third section of the act to which this act is supplementary, and subject to all restrictions in said act not inconsistent with the provisions of this act.

Certificate of association, what it shall specify.

Its acknowledgment.
Its record.

General powers

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

Supplementary to an act entitled "an act to incorporate the state bank of Ohio and other banking companies," passed February 24, 1845.

Swan's R. S. 80. Curwen's R. S. 108-9. Curwen's Laws, 719.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever a receiver shall have been, or shall hereafter be, appointed pursuant to the 41st section of the act to which this act is amendatory, a certificate by the clerk of the proper court of the appointment of such receiver, shall be sufficient authority to him to take possession of the books, property, rights, credits, and effects of every description of the independent banking company, in respect to which he is such receiver, and shall be full authority to the sheriff of the county where such banking company is located, to give such receiver full possession of such books, property, rights, credits, and effects with the aid of the county if required so to do, by such receiver.

Receiver; evidence of his authority to take possession of the assets of the bank, etc.

SEC. 2. Whenever the said receiver shall have reason to believe that any such banking company has issued notes of circulation in violation of the act to which this act is an amendment, or that such banking company is entitled to any

When he is to investigate certain specified matters.

rights, credits, or effects, which have been improperly taken by any officer, employee, or stockholder thereof, or any other person, and which are in the hands of the taker, or any other person or persons, to whom the sums may have been transferred, or into whose hands the same may have otherwise come, it shall be the duty of such receiver to investigate fully all the facts and circumstances touching such transaction, and for that purpose he is hereby authorized, if he deem it necessary and proper to do so, to issue subpœnas for any persons found within the county, where such subpœnas shall be issued, commanding them to appear before him at a time and place, in such county, to be designated in the subpœna, to testify touching such matters as may be inquired of them by the receiver, and such subpœna shall be served by the sheriff of such county, and the receiver may also insert in such subpœnas a clause requiring the production before him of such books and papers as may be designated therein, and he shall have the same power to enforce obedience to such subpœnas, and to punish for disobedience thereto, and for refusing to testify in such case, that justices of the peace are clothed with in all cases of subpœnas issued by them.

His authority as to subpœnaing witnesses.

Production of books and papers.

Power to enforce obedience, and punish disobediency by his subpœnas.

May bring suit in his own name; for what, and in what county, and his report and testimony taken by him.

SEC. 3. Such receiver may institute suit in his own name as such receiver, for all rights, credits and effects, belonging to such banking company, in either the court of common pleas or superior court of Franklin county; and upon such suit being instituted, he shall file in such court a report of his doings, together with the testimony taken up to that time as such receiver, and all the testimony shall stand in all respects as the testimony taken by a master duly appointed in such case, and any party to the suit may except to any part of such report, and ask a new reference, or take further testimony, and the court shall have full power to proceed on the case, as it may deem proper, as in other cases after reference and report made by a master. Provided that nothing herein contained shall be held to deprive any party to such suit of a trial by jury where such party would have been entitled to a jury trial, if the receiver had filed no such report.

Proceedings in such case.

Proviso as to jury trial.

SEC. 4. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To authorize the sale of surplus copies of the laws, journals, and executive documents.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever, in any county in this state, the laws, journals, and executive documents ordered by law to be distributed have accumulated, or shall accumulate beyond the number required for immediate distribution, and for the probable future wants of such county, the county commissioners shall authorize the clerk of the court of common pleas of said county to dispose of gratuitously to all public libraries within the county as may be desired by them for library purposes, and to sell such surplus copies at public sale, at such time and place and upon such previous notice as they may require. The clerk shall pay all moneys arising from such sales into the county treasury, and all such moneys shall be considered a part of the general revenue of the county. This act shall take effect upon its passage.

Disposition of surplus copies of the laws, journals and executive documents in any county.

Gratuitously. By sale.

Proceeds of sale

WILLIAM B WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To amend section one of the act entitled "an act to amend section 66 of an act entitled an act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed March 4, 1858.

Curwen's R. S., 1295; Curwen's Laws, 1127. 55 Laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the act entitled "an act to amend section sixty-six of an act entitled 'an act to provide for the creation and regulation of incorporated companies in the state of Ohio,'" passed March 4, 1858, be, and the same is hereby so amended as to read as follows: Sec. 1. That from and after the passage of this act it shall be lawful for any religious sect, denomination or association, fire company, or any literary, scientific or benevolent association, other than colleges, universities, academies or seminaries, within this state, to elect at a meeting of a majority of any organized synod, presbytery, church, parish, or other religious or ministerial association, fire company, literary, scientific or benevolent association as aforesaid, any number of their members not less than three, to serve as trustees or directors, and one member as clerk, who shall hold their office during the pleasure of the society or association, pro-

Directors and clerk of certain bodies corporate. Their election, &c.

vided that where by the laws or regulations of any such synod, presbytery, church, parish, or other association aforesaid, now or hereafter organized, any members thereof less than three have charge of the property or concerns thereof, such members and their successors shall be invested with the powers, privileges, and immunities granted to trustees and directors, of religious and other societies, by the provisions of the act entitled an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, and the acts amendatory thereof, upon their being recorded by the recorder of the county in which such synod, presbytery, church, parish or other association shall be located, a proper certificate of the election of such members and the corporate name adopted by such synod, presbytery, church, parish, or other association, to be made by their clerk, secretary or other like officer, which certificate shall be recorded by such recorder in the manner provided in section sixty-seven of the act entitled "an act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed May 1, 1852.

And powers, etc.

Swan's R. S., 197.

Record of certificate of election and corporate name, etc.

Swan's R. S., 227.

SEC 2. That the act entitled "an act to amend section sixty-six of an act entitled 'an act to provide for the creation and regulation of incorporated companies in the state of Ohio,'" passed March 4, 1858, be, and the same is hereby repealed, provided that all rights, powers and immunities acquired thereunder, shall not be affected thereby, and that this act shall take effect from and after its passage.

Act repealed.

Saving clause.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

53 Laws, 81.

To amend the second section of "an act to provide for the uniform government and better regulation of the lunatic asylums of the state, and the care of the idiots and the insane."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the second (2d) section of "an act to provide for the uniform government and better regulation of the lunatic asylums of the state, and the care of idiots and the insane," passed April 7, 1856, be so amended as to read as follows: Sec. 2. The following counties shall compose the northern district, which shall be attached to the northern lunatic asylum, located at Newburgh, to wit: Williams, Fulton, Seneca, Wood, Ottowa, Sandusky, Lucas, Erie,

Northern district.

Huron, Lorain, Medina, Cuyahoga, Summit, Lake, Geauga, Portage, Ashtabula, Trumbull, Mahoning and Columbiana.

The following counties shall compose the central district, and be attached to the central lunatic asylum, located at Columbus, to wit: Stark, Wayne, Fayette, Madison, Union, Marion, Hardin, Wyandot, Crawford, Morrow, Delaware, Franklin, Pickaway, Ross, Pike, Jackson, Vinton, Hocking, Fairfield, Lawrence, Licking, Knox, Richland, Ashland, Holmes, Coshocton, Muskingum, Perry, Morgan, Athens, Meigs, Gallia, Washington, Noble, Guernsey, Tuscarawas, Carroll, Harrison, Jefferson, Belmont, Hancock and Monroe. Central district.

The following counties shall compose the southern district, and be attached to the southern lunatic asylum, located at Dayton, to wit: Scioto, Adams, Brown, Clermont, Clinton, Greene, Clark, Warren, Montgomery, Miami, Butler, Preble, Darke, Mercer, Shelby, Auglaize, Allen, Van Wert, Highland, Champaign, Logan, Paulding, Putnam, Defiance and Henry. Southern district.

If, at any time, either of said asylums cannot accommodate the patients of the district to which it is attached, said patients may be transferred to the asylum of either of the other districts which may at the time have room for said patients, said transfer to be made with the consent of the resident trustees of the two asylums. Transfer of patients.

SEC. 2. Said original section two is hereby repealed. This act shall take effect and be in force from and after the certificate required by the first section of the act entitled "an act to constitute the county of Hamilton a separate district for lunatic asylum purposes, and to provide for the erection and government of an asylum therein," passed March 10, 1857, shall have been filed by the commissioners of Hamilton county with the secretary of state. Sec. repealed. When act takes effect. 54 Laws, 25.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To provide for districting any county in the state, where the commissioners of said county have failed to district in accordance with the provisions of an act to amend an act, passed April 13, 1852, entitled "an act for the assessment and taxation of all property in this state, and for levying taxes thereon, according to its true value in money," passed April 12, 1858. Curwen's R. S., 1762; Curwen's Laws, 1002. 55 Laws, 68.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in any county of this state, where the county commissioners have failed to district their county, at their June session in 1858, in accordance with the provisions

When county may be districted at any time prior to the first Monday in April, 1859.

of section thirty-three of an act for the assessment and taxation of all property in this state, and for levying taxes thereon, according to its true value in money, it shall be lawful for them, and they are hereby directed to district said county at any subsequent meeting of said commissioners, prior to the first Monday in April, 1859.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To authorize county commissioners to fill vacancies in certain cases.

Modifying Curwen's R. S., 2473; Curwen's Laws, 297.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in any county in this state where the office of county coroner becomes vacant, it shall be the duty of the county auditor of said county to notify the commissioners of such vacancy, and upon the receipt of said notice, the commissioners shall proceed immediately to fill such vacancy by the appointment of a suitable person, who shall, after having given bond and taken an oath as now provided by law, serve until the next October election, or until his successor is elected and qualified.

As to filling vacancy in office of coroner.

Bond, oath, and term of appointee.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

Curwen's R. S. 1835; Curwen's Laws, 1072.
Swan's R. S. 955

To provide for the appointment of police commissioners in cities of the first class, having a population exceeding eighty thousand inhabitants, and supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, and the other acts supplementary and amendatory thereto.

Appointment of police commissioners in certain cities.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cities of the first class, containing a population exceeding eighty thousand inhabitants, it shall

be the duty of the mayor, police judge and the city auditor, in addition to the other duties imposed on them by law, to meet together on the last Monday in March, 1859, two of whom shall constitute a quorum, and appoint from among the qualified electors of such city four persons, to be styled police commissioners, who, with the mayor of such city, shall be a board of police commissioners, who shall perform the duties in this act designated. At the first meeting of said board, the four commissioners so above appointed shall draw lots to determine who shall remain in the board for the first five years, who for the first four years, who for the first three years, and who for the first two years, and the said commissioners shall respectively hold their office for the periods so determined by lot. All vacancies in said board, by expiration of terms [of] office, death, resignation or otherwise, shall be filled by the mayor, police judge and city auditor, at a meeting held for that purpose, any two of whom shall be a quorum; and all appointments to fill a vacancy occasioned by the expiration of the term of a member of the board of police commissioners, shall be for five years; and all such appointments shall be made at a regular meeting of the board, held on the last Monday of March of each and every year from and after the last Monday of March, 1861; and all appointments to fill a vacancy occasioned otherwise than by the expiration of a term, shall be for the unexpired term of the member creating the vacancy, and such appointments shall be made as soon as practicable after such vacancy has been created, at a meeting called for that purpose by the mayor, whose duty it is hereby made to do the same.

Duties of board

Terms of the appointed commissioners.

Vacancies in board.

SEC. 2. It shall be the duty of said board of police commissioners to appoint one chief of police, so many lieutenants of police, and so many day, night and special watchmen for each ward, and, in cases of emergency, so many extra watchmen as they may think necessary and proper, and fill all vacancies in the said police force. They shall also appoint keepers of station houses, not exceeding two for each station house, who shall have the powers and pay of watchmen. The persons so appointed by said commissioners shall hold their respective offices at the discretion of the board, and, before entering upon their respective duties, shall make oath or affirmation that they will faithfully, impartially, and, to the best of their ability, execute and perform the duties of their office. It shall be the further duty of the board to establish rules and regulations for the direction and government of the police, and have the same printed, and a copy thereof delivered to each officer, watchman and station house keeper, and the board may call to their assistance the aid of the city solicitor, in framing so much of said rules and regulations as shall define the powers of the police in making arrests, and securing persons under

Police and watchmen.

Station house keepers, their powers and pay.

Their term and oath of office.

Rules and regulations for their government.

Complaints against them.

arrest. All complaints against any officer, watchman, or station house keeper, shall be made in writing to the mayor, who shall lay the same before the board at the first regular meeting thereof, or at a special meeting, which the mayor is hereby authorized to call. The party complained of shall have due notice of the cause of complaint against him, and shall be heard in his defense. A record shall be kept of the proceedings of the board, which shall be open to the inspection of any citizen, at all reasonable hours; and the clerk of the mayor shall act as clerk of the board of police commissioners, without additional compensation. The members of said board, previous to the entering on the duties of their office, shall take an oath or affirmation that they will support the constitution of the United States and the constitution of the state of Ohio, and that they will honestly, faithfully, and to the best of their ability perform the duties of their office as police commissioners. Said commissioners shall receive no compensation or reward for their services, and shall, during the time they are in office, hold no office of profit, either under the authority of such city, or county wherein such city is situated, or of the state of Ohio. After said police commissioners shall have been appointed and qualified, they shall hold their first regular meeting on the first Wednesday in April, 1859, and make all the appointments authorized to be made by them under this act. The said commissioners shall have power to adopt such rules and regulations for their own government, and time of holding their sessions, not inconsistent with any provisions of this act, as they may deem proper, and any three of them shall constitute a quorum to transact business.

Notice thereof and defense.

Record of the proceedings of the board.

Mayor's clerk to be its clerk.

Members of the board, their oath of office.

To receive no compensation or reward.

To hold no other office under city, county or State.

Their first meeting and appointments.

Rules and regulations for their own government

Quorum.

Room, furniture and stationery for board.

Appropriation monthly out of city treasury to pay police, watchmen and station house keepers.

Their salaries.

Board to meet in mayor's office, until &c.

Monthly certificate of chief of police to president of board, who is to certify to city auditor.

SEC. 3. It shall be the duty of the city council of such city to provide a suitable room in which said board may meet for the transaction of business, and shall also provide the same with the necessary furniture, and the board with the necessary stationery. It shall be the further duty of such city council to appropriate out of the city treasury, monthly, funds to pay said police officers, watchmen and station house keepers, and for other necessary expenses under this act, and make the necessary levy for taxes to meet the same. The city council shall by ordinance fix the salaries of said police officers, watchmen, and station house keepers, but a lieutenant of police shall not receive less than two dollars, and a watchman and station house keeper not less than one dollar and sixty cents per day. Until other provision is made by the city council, the board of police commissioners shall meet in the mayor's office.

SEC. 4. It shall be the duty of the chief of police to certify to the president of the board of police commissioners, at the close of each month, the names of the members of the police, and the number of days service by them respectively performed for the month just closed, and the president shall certify the same to the city auditor.

Office of chief of police substituted for that of city marshal in certain cities.

SEC. 5. In all such cities of the first class, with a population exceeding eighty thousand inhabitants, there shall be no such office as that of city marshal, but the duties thereof, as now imposed by the acts to which this is supplementary, on the city marshal, shall be performed by the chief of police. The said chief of police shall execute all process to him directed by the mayor or judge of the police court, and shall by himself or some lieutenant of the police attend on the sittings of said court, to execute its orders and process, and to preserve order therein; he shall have power to designate the lieutenant who shall attend on the sittings of the said court, and shall also have power to detail from the police force under his control, daily, such number of watchmen as may be necessary to execute, in his stead, all process or orders to him directed; he shall have power, by himself or deputy, to execute all such process in any part of the county in which such police court is situated; he shall also perform all duties that are now required to be performed by the chief of police under and by the act to which this is supplementary; it shall be his duty to suppress all riots, disturbances and breaches of the peace, and to that end may call upon the citizens to assist him to apprehend all persons in the act of committing any offense against the laws of this state or the ordinances of the city, and them forthwith to bring before the proper authority for examination or trial; he shall have power to pursue and arrest any person fleeing from justice, in any part of the state, and to receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from any other place or state; he shall have, in the discharge of his proper duties, like powers, be subject to like responsibilities, as sheriffs and constables in similar cases; he shall receive from the city not less than fifteen hundred dollars per annum, and from the county for state cases not exceeding five hundred dollars per annum, to be allowed and fixed by the county commissioners of such county; but in no case shall he or the lieutenant or watchmen who may be detailed by him to attend on the police court, receive any fees, perquisites, or reward whatever, nor shall any police officer, watchman or station house keeper receive or demand any perquisites or reward, and all fees, fines, penalties and costs, by said chief of police, lieutenant or watchmen collected, shall be paid over to the clerk of the police court when collected.

Duties and powers of chief of police.

His salary.

Prohibition as to fees, perquisites or rewards.

Fees, fines, penalties and costs to be paid over when collected, to clerk of police court.

SEC. 6 The city council of all such cities of the first class with a population exceeding eighty thousand inhabitants, shall have power to erect, establish and maintain a city prison and city work house, which shall be in the keeping and under the control of one superintendent each, to be appointed by the city council, who shall hold their offices for the term of two years, and until their successors are elected and qualified, who shall receive from the city for their servi-

City prison and city work house in certain cities may be erected and maintained by city council.

Superintendent thereof—his appointment and term.

His salary, &c.

ces not to exceed eight hundred dollars per annum each, and shall be governed by such rules and regulations as the city council may prescribe, but they shall receive no fees or perquisites whatever other than the amount above specified. It shall be the duty of the city council to provide by ordinance for sustaining all persons sentenced to the city prison or city workhouse, or confined therein at the expense of the city, and the city auditor, on presentation of bills for food and sustenance and necessary supplies, certified to by such person or persons as council shall by ordinance designate, shall audit the same under such rules and regulations as council may prescribe, and the chief of police shall detail from the police force such number of watchmen as the board of police commissioners may approve of for the guarding and safe keeping of all persons therein confined.

Sustenance of persons sentenced to city prison or city work house.

Guards.

How appointments of chief of police, lieutenants, watchmen and station house keepers made, until board of police commissioners appoint them.

SEC. 7. Until the board of police commissioners shall have appointed a chief of police, lieutenants, watchmen and station house keepers, the appointment of such officers shall be made as now provided for by said acts to which this act is supplementary, but no longer.

As to government of certain cities in all other particulars except &c.

SEC. 8. In all other particulars, except as hereinbefore designated and provided, cities of the first class, containing a population exceeding eighty thousand inhabitants, shall in all respects be governed by the provisions of the acts to which this is supplementary, applicable to cities of the first class.

SEC. 9. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

Curwen's R. S., 1877; Curwen's Laws, 1110.

To enable associations of persons for the improvement of any mineral or medicinal springs in Ohio, to become bodies corporate.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any number of natural persons, not less than five, may become a body corporate, with all the rights, privileges and powers conferred, and subject to all the restrictions of this act.

Who may become bodies corporate.

SEC. 2. That any number of persons as aforesaid, associating themselves together for the purpose of improving any of the mineral springs in the state of Ohio, and making the same a proper and suitable place for the reception and accommodation of invalids and other visitors, shall under

Certificate of association.

their hands and seals make a certificate, which shall specify as follows: First. The name assumed by such company or association, and by which it shall be known. Second. The number of mineral or medicinal springs to be improved as aforesaid, and place where situated. Third. The amount of capital stock necessary, and the amount of each share thereof. Such certificate shall be acknowledged before a justice of the peace, or other proper officer, and shall be forwarded to the secretary of state, who shall record and carefully preserve the same in his office; and a copy thereof duly certified by the secretary of state, under the great seal of the state of Ohio, shall be evidence of such corporation or company.

Its acknowledgment.

Its record.

Copy evidence.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate, are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act, and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract or be contracted with, acquire and convey, at pleasure, all such real and personal estate as may be necessary and convenient to carry into effect the objects of the incorporation; to make and use a common seal, and the same to alter at pleasure, and do all needful acts to carry into effect the objects for which it was created; and such company shall possess all the powers, and shall be subject to all the rules and restrictions of this act.

General powers.

SEC. 4. Any company or association, organized for the purposes aforesaid, shall have power to take by purchase or otherwise, and hold such real and personal property and estate, as may be deemed necessary for successfully commencing and conducting the business of the association, and shall have power to lease, sell or convey, or mortgage the same, or a part thereof, in such manner and for such purposes as may be prescribed by the rules and regulations of the company, and not inconsistent with the laws of this state. And said company shall also have power to deal in the transportation and sale of the mineral waters yielded by their springs, and to manufacture glass and other vessels for holding the same; to engage in quarrying stone, marble or slate; mining coal, ores and other minerals situated on their lands, and manufacturing the same, in whole or in part, or both, and to erect and provide suitable buildings for the accommodation of visitors and others frequenting said spring or springs, and to demand and receive compensation from said person or persons.

Same.

SEC. 5. The annual meeting of the stockholders of such companies shall be held on the first Tuesday of May, in each year, at which meeting the directors of the company

Annual meeting of stockholders and election of directors, &c.

shall be elected, and such other lawful business done as the stockholders shall deem necessary and proper; and should they fail to elect directors at their annual meeting, they shall hold a special meeting at some subsequent time thereafter for the purpose, by giving thirty days notice thereof in some newspaper in general circulation in such county. The directors shall hold their offices until their successors are chosen and qualified; but no person shall be a director after ceasing to be a stockholder. Immediately after the elections of directors, they shall elect one of their number president of the corporation, and may appoint such other officers and agents as they may deem proper to transact their business and prescribe the amount of compensation to be allowed them for their services; and such officers and agents, or either of them, when required by the by-laws, shall give bonds to the satisfaction of the directors or president, as the by-laws may direct, for the faithful discharge of the trusts committed to them; shall have power and are hereby authorized to make such rules, regulations and by-laws, as may be necessary for their regulation, not inconsistent with the constitution of this state. The directors shall have the general management of the affairs of the company, and may dispose of the residue of the capital stock at any time remaining unsubscribed, in such manner as the stockholders for the time being may prescribe, and shall employ the capital and means of the company as they shall deem best for the company, in carrying on the business for which it was organized, and the erecting of proper buildings, and the improvement of their grounds and other proper purposes connected with and pertaining to the said business of the company, subject always to the control of the stockholders; they shall cause a record to be kept of all stock subscribed and transferred, and of all business transactions, and their books and records shall at all reasonable times be open to the inspection of any and every stockholder; they shall also, when required, present to the stockholders, reports in writing, of the situation and amount of business of the company, and declare and make such dividends of the profits from the business of the company, not reducing the capital stock while they have outstanding liabilities, as they shall deem expedient.

Special meeting, and notice thereof.

Term of office of directors.

President of the corporation, and other officers and agents, and their compensation

When to give bond.

Rules, regulations and by-laws.

Powers of directors.

Record of stock and business.

Inspection of books and records.

Reports of directors and dividends.

SEC. 6. The persons named in said certificate of incorporation, or a majority of them, shall be commissioners to open books for the subscription to the capital stock of said company, at such times and places as they shall deem proper, and the said company are authorized to commence operations upon the subscription of ten per cent. of said stock.

Subscription books, &c.

Operations may be commenced on subscription of ten per cent. of stock.

SEC 7. An installment of twenty dollars on each share of stock shall be payable at the time of making the subscription, and the residue thereof shall be paid in such in-

Payment of installments.

stallments and at such times and places, and to such persons, as may be required by the directors of such company.

SEC. 8. All stockholders of any such association or joint stock company shall be deemed and held liable to an amount equal to their stock subscribed in addition to said stock for the purpose of securing the creditors of said company. Liability of stockholders.

SEC. 9. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 16, 1859.

AN ACT

Amendatory of the twelfth section of the act to provide for laying out and establishing free turnpike roads, passed March 12, 1845.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the twelfth section of the act entitled "an act to provide for laying out and establishing free turnpike roads," passed March 12, 1845, be and the same is hereby so amended as to read as follows: Section 12. The commissioners of all free turnpikes shall be allowed and paid for their services one dollar and fifty cents per day each, while actually employed in the necessary business of such roads; and when any vacancy shall happen in such board, by death, resignation or otherwise, the commissioners of the county in which such vacancy may occur, on being notified thereof, shall fill the same as often as any such vacancy shall occur.

Per diem of commissioners of free turnpike companies.

Vacancy in board; how filled.

SEC. 2. The twelfth section of said act is hereby repealed. This act shall take effect and be in force from and after its passage. Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

To provide for the working of unfinished turnpike roads by supervisors of the highways.

What turnpike roads supervisor may work, &c.

Consent of directors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for the supervisors of the several road districts within this state, to apply such portion of labor, or money, as they may deem reasonable and just, upon any unfinished turnpike road within their respective road districts, when the same is used by the public free of toll; Provided that the directors of any unfinished turnpike road shall first give their consent to the trustees of the township in which such unfinished turnpike road or roads is located.

Order of township trustees.

SEC. 2. That upon any turnpike road company giving their consent to the trustees of the township, in writing, it shall be the duty of the trustees to issue their order to the several supervisors through whose districts such unfinished turnpike road is located, for them to apply the work and money as provided in the first section of this act.

SEC. 3. This act to be in force from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

To prohibit the carrying or wearing of concealed weapons.

The offense of carrying or wearing concealed weapons.

Penalty.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whoever shall carry a weapon or weapons, concealed on or about his person, such as a pistol, bowie knife, dirk, or any other dangerous weapon, shall be deemed guilty of a misdemeanor, and on conviction of the first offense shall be fined not exceeding two hundred dollars, or imprisoned in the county jail not more than thirty days; and for the second offense, not exceeding five hundred dollars, or imprisoned in the county jail not more than three months, or both, at the discretion of the court.

When the jury shall acquit the accused.

SEC. 2. If it shall be proved to the jury, from the testimony on the trial of any case presented under the first section of this act, that the accused was, at the time of carrying any of the weapon or weapons aforesaid, engaged in the pursuit of any lawful business, calling, or employment, and that the circumstances in which he was placed at the

time aforesaid were such as to justify a prudent man in carrying the weapon or weapons aforesaid for the defense of his person, property or family, the jury shall acquit the accused.

SEC. 3. This act to take effect and be in force from and after the first day of April next.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

Amendatory to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852. Swan's R. S. 968-9.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That original section sixty-three, of an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, A. D. 1852, be so amended as to read as follows: Sec. 63. The city council shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, within the city, and shall cause the same to be kept open, and in repair, and free from nuisances. No street or alley, which shall hereafter be dedicated to public use by the proprietor of ground in any city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted, and confirmed by an ordinance specially passed for such purpose; they shall have the power to prescribe by ordinance the width of the tires of all wagons, carts, drays, and other vehicles, used in the transportation of persons or articles from one part of the city to another, or in the transportation of coal, wood, stone, lumber, or iron, into the city; to establish stands for hackney coaches, cabs, and omnibuses, and to enforce the observance and use thereof, and to fix the rates and prices for the transportation of persons and property in such coaches, cabs and omnibuses, from one part of the city to another.

Care, supervision and control of city highways, bridges, streets, alleys, public squares and commons.

SEC. 2. That original section sixty-three of the act to which this is amendatory be and the same is hereby repealed, and this act shall take effect and be in force from and after its passage.

Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

To provide for locating, establishing and constructing ditches, drains and water-courses.

Ditches, drains, or water-courses their establishment location, and construction provided for.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners of any county shall have power, at any regular session, whenever, in their opinion, the same is demanded by, or will be conducive to the public health, convenience or welfare, to cause to be established, located and constructed, as hereinafter provided, any ditch, drain or water-course, within such county.

Proceedings for locating them.

SEC. 2. That before the county commissioners of any county shall take any steps toward locating or establishing any ditch, drain or water-course, there shall be filed with the county auditor a petition from one or more persons owning lands adjacent to the line of such proposed ditch, drain or water-course, setting forth the necessity of the same, with a description of its proposed starting point, route and terminus, and shall, at the same time, file a bond with good and sufficient sureties, to the acceptance of the county auditor, conditioned to pay all expenses incurred, in case the commissioners shall refuse to grant the prayer of the petition, and it shall be the duty of the county auditor immediately thereafter, to place a correct copy of said petition in the hands of the county surveyor or a competent engineer, who shall thereupon, taking with him the necessary assistance, proceed to make an accurate survey of the route of such proposed ditch, drain or water-course, and on the completion thereof, shall return a plat, or plat and profile of the same to said county auditor, and shall also set forth in his return a description of the proposed route, its availibility and necessity, with a description of each separate tract of land through which the same is proposed to be located, how it will be affected thereby, and its situation and level as compared with that of adjoining lands, together with such other facts as he may deem material. It shall be the duty of the county auditor, immediately on said report being filed, to cause notice in writing to be given to the owner or one of the owners of each tract of land along the route of such proposed ditch, drain or water-course, of the pendency and prayer of said petition, and of the time of the session of the county commissioners at which the same will be heard, which notice shall be served at least ten days prior to said session, and an affidavit of said service filed with the county auditor; and in case any such owner is not a resident of the county, or should any party or parties in interest, die during the pendency of said proceeding, such death shall not work an abatement of such proceeding, but the county commissioners, on being notified thereof, shall make such order as they may deem proper, for giving notice to the person or persons succeeding to the right of such deceased party or parties, and notice of the pendency and prayer of

said petition, and the time of hearing the same shall be given to such owner or persons, by publication for two consecutive weeks in some newspaper published or of general circulation in said county.

Compensation for lands appropriated therefor.

SEC. 3. That any person or persons claiming compensation for lands appropriated for the purpose of constructing any ditch, drain or water-course under the provisions of this act, shall make his, her or their application in writing therefor to the county commissioners, on or before the third day of the session at which the petition has been set for hearing, and on failure to make such application, shall be deemed and held to have waived his, her or their right to such compensation.

Hearing of petition for ditch, drain or water-course, and location of same.

SEC. 4. That said county commissioners, at the session set for the hearing of said petition, shall, if they find the requirements of the second section of this act to have been complied with, proceed to hear and determine said petition; and if they deem it necessary, shall view the premises, and if they find such ditch, drain or water-course to be necessary, and that the same is demanded by or will be conducive to the public health, convenience or welfare, and no application shall have been made for compensation as provided in the third section of this act, they shall proceed to locate and establish such ditch, drain or water-course on the route specified in the plat and return of said county surveyor or engineer. But if any application or applications for compensation as aforesaid, shall have been made, further proceedings by the county commissioners shall be adjourned till their next regular session; and the county auditor shall forthwith certify to the probate judge of said county a copy or copies of said application or applications, together with a description or descriptions of the property sought to be taken and appropriated, as contained in the plat or report of the county surveyor or engineers; which shall be forthwith docketed by said probate judge, styling the applicant or applicants plaintiff or plaintiffs, and the county commissioners defendant; and such proceeding shall thereupon be had to assess and determine the compensation of such claimant or claimants, as are authorized and required by the act entitled "an act to provide for compensation to the owners of private property appropriated to the use of corporations," passed April 30, 1852, and the acts amendatory thereof and supplementary thereto, so far as the same may be applicable; and the compensation so found and assessed in favor of said claimant or claimants shall be certified by the probate judge to the county auditor and paid out of the county treasury, from the general fund, or remain deposited therein for the use of such claimant or claimants; and said county commissioners shall, at the next regular session after such compensation shall have been assessed and paid or deposited as aforesaid, proceed to locate and establish such ditch, drain or water-course as herein before provided.

Proceedings to assess and determine compensation of claimants.

Swan's R.S. 732.

Disposition and payment of compensation, and location and establishment of ditch, drain or water-course.

Divisions of same into sections, and completion of work thereon.

SEC. 5. That said county commissioners, whenever they shall have established any such ditch, drain or watercourse, shall divide the same into suitable sections, not less in number than the numbers of owners of land through which the same may be located, and shall also prescribe the time within which the work upon such sections shall be completed.

Letting of same to lowest bidder.

SEC. 6. That the county auditor shall cause notice to be given of the time and place of letting, and of the kind and amount of work to be done upon said sections, and the time fixed by the commissioners for its completion, by publication for thirty days, in some newspaper printed, or of general circulation in said county, and shall let the work upon said sections respectively to the lowest bidder therefor; and the person or persons taking such work at such letting, shall, on the completion thereof to the satisfaction of the county commissioners, be paid for such work out of the county treasury upon the order of the county auditor; provided, that if any person or persons to whom any portion of said work shall be let as aforesaid, shall fail to perform said work, the same shall be re-let by the county auditor, in the manner hereinbefore provided.

Completion of work and payment therefor.

Proviso as to re-letting.

Record in each case.

SEC. 7. That the county auditor shall keep a full and complete record of all proceedings had in each case under this act.

Fees, costs, expenses and compensation— how paid.

SEC. 8. That the auditor and surveyor or engineers shall be allowed such fees for services under this act, as the county commissioners shall, in each case, deem reasonable and allow; and all other fees and costs accruing under this act shall be the same as provided by law for like services in other cases, and all costs, expenses, costs of construction, fees and compensation for property appropriated, which shall accrue and be assessed and be determined under this act shall be paid out of the county treasury, out of the general fund on the order of the county auditor, provided that no part of the same, except the compensation for property appropriated, shall be paid out of the county treasury till the sum shall have been levied and collected as provided in the next section of this act.

Proviso.

Apportionment of same.

SEC. 9. That the county commissioners shall make an equitable apportionment of the costs, expenses, cost of construction, fees and compensation for property appropriated, which shall accrue, and be assessed and determined under this act, among the owners of the land benefited by the location and construction of such ditch, drain or watercourse, in proportion to the benefit to each of them through, along the line, or in the vicinity of whose lands the same may be located and constructed respectively; and the same shall be levied upon the lands of the owners so benefited, in said proportions, and collected in the same manner that other taxes are levied and collected for county purposes.

Levy of proportions and their collection.

Acts repealed.

SEC. 10. The act entitled "an act authorizing the trustees of townships to establish water-courses and locate ditches in certain cases," passed May 1, 1854, and the act amendatory thereto, passed April 14, 1857, and the original act passed February 24, 1853, on the same subject, are hereby repealed; provided, that no proceedings had or commenced under any law repealed by this act shall be affected by such repeal.

Swan's R. S. 333.

54 Laws 112.

51 Laws 351.

SEC. 11. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 24, 1859.

AN ACT

To appropriate the proceeds of the sale of old arms, heretofore collected, to the purchase of a site and the erection of the state arsenal thereon.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the proceeds of sales of old arms and equipments, heretofore realized under the provisions of "senate joint resolution relative to collection and sale of public arms," passed April 17, 1857, be applied to the purchase of a site for the state arsenal, and the erection thereon, of a suitable building for the care and safe keeping of the public arms, pursuant to the provisions of an act to authorize the building of an arsenal for the state of Ohio, passed April 18, 1857; provided, that said site shall be purchased and said building completed by the appropriations already made for that purpose.

54 Laws 296.

Purchase of site and erection of arsenal.

54 Laws 195.

Proviso.

SEC. 2. This act shall take effect from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 24, 1859.

AN ACT

To amend an act "to authorize the incorporation of mutual insurance companies," passed April 14, 1857.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the 4th section of an act "to authorize the incorporation of mutual insurance companies," passed April 14, 1857, be so amended as to read as follows: That every

54 Laws, 114.

Application for membership and insurance.

person who may desire to become a member of such company by effecting an insurance therein, shall make application in writing, naming the property sought to be insured: and before receiving a policy of insurance for the same,

Delivery of note and receipt of policy.

shall make and deliver a promissory note, payable to such company in such sum as the board of directors shall determine, subject to such assessment on the same, to pay losses,

Money payment.

as is provided by said act: and shall also pay such an amount in money not exceeding fifteen per cent, as shall be determined by said board, to pay the incidental expenses of such company, and to put such company in funds as required by the 14th section of said act: and to keep up the same as it may be drawn out to pay losses and expenses;

Relinquishment of unpaid part of note, at expiration of insurance.

and at the expiration of the time of insurance, the said note, or such part of the same as shall remain unpaid after deducting all losses and expenses accruing during said term, shall be relinquished and given up to the maker thereof.

Sec. repealed.

SEC. 2. That the 4th section of said recited act be and the same is hereby repealed.

SEC 3. This act to be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

AN ACT

Providing for enclosing railroads by fences and cattle guards.

What companies to construct and maintain good and sufficient fences; and within what time.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That every railroad company or other party having the control or management of a railroad, the whole or a part of which shall be located within this State, shall, and is hereby required, within two years after the passage of this act, or within two years after commencing to run cars thereon for the transportation of passengers or freight, to construct and maintain good and sufficient fences on both sides of such road, or such part thereof as shall be in running order and located within this state, and also to make

And crossings.

and maintain a sufficient number of suitable crossings for the accommodation of the public, and of persons living near the line of such railroad, together with the necessary cattle

And cattle guards.

guards to prevent cattle and other animals from endangering themselves and the lives of passengers by getting upon

Damages to domestic animals.

such railroad, and such company shall be liable for all damages which may result to horses, cattle, or other domes-

tic animals by reason of the want or insufficiency of such fences, road crossings or cattle guards, or by any carelessness or negligence of such company, party, or agent or agents thereof; and no person shall ride, lead or drive any horse, cow or other domestic animal into such inclosure and upon such railroad track, without the consent of such company or party, under penalty of a fine not exceeding ten dollars for every such offense, to be recovered by such corporation or party in an action before a justice of the peace of the proper township, and the liability of all damages which may be thereby occasioned: provided, that whenever such railroad shall pass through or along the boundary of any inclosed field or fields, the proprietor or proprietors of such inclosed field or fields, is hereby required to construct one-half the fence necessary to partition such inclosed lands from the railroad, and the construction of the same may be enforced in the same manner as are the partition fences between two or more individual boundaries: provided further, that any person or persons desiring a private crossing or crossings and cattle guards as contemplated by this act, shall be responsible for one-half the expense of constructing and maintaining the same.

Penalty for taking them within enclosure.

How recovered.

The building of partition fences between road and adjoining inclosed fields.

Private crossings and cattle guards.

SEC. 2. That whenever any railroad company or other party having the control and management of a railroad shall have erected such fence or fences as are required by the first section of this act, and any lands adjacent thereto, the owners of which have received a compensation for the right of way through the same, are or shall be inclosed so that such railroad fences shall form, in whole or in part, the inclosure to such lands, the person or persons owning the same shall pay to such railroad company one-half of the cost and expenses incurred by the construction of so much thereof as serves as a partition fence, or one-half the value of such fence at the time such inclosure may be made, as the case may be, and whenever any such lands shall have been inclosed by the owner or occupier thereof in such manner that the inclosing fence, in whole or in part, may be made to answer the purpose of inclosing such railroad, the railroad company or other party having the control and management of the road, may join its fences thereto upon paying to such owner or occupier one-half the cost or one-half the cash value of so much of such fence as serves to inclose the railroad, and in all cases where either the railroad company or other party having the control and management of a railroad, or the owner or occupier of lands adjoining, shall refuse to pay, as required by the provisions of this section, one-half the cost or one-half the cash value of so much fence as shall have been built by the other, and serves the double purpose of inclosing the railroad and the adjoining lands, the same may be recovered before any court of competent jurisdiction in a civil action.

As to use of fences already made and which incloses railroad and adjoining lands, and the payment by one party to the other of half cost or cash value of such fence.

Recovery therefor on refusal to pay.

Repair of such fences.

SEC. 3. That when such fences are duly made, they shall be kept in repair in all respects as partition fences are now by law required to be kept in repair.

This act not to affect certain contracts.

SEC. 4. Nothing contained in this act shall be held to affect in any manner any contract or agreement between any railroad company or other party having the control and management of a railroad and the proprietors or occupyers of lands adjoining for the construction and maintenance of fences, cattle guards and railroad crossings.

Penalty for neglect or refusal after notice to build and keep in repair fences, crossings, and cattle guards.

SEC. 5. That if any railroad company, or other party having the control and management of a railroad, shall neglect or refuse to construct such fences, cattle guards or crossings, or to keep the same in repair, as prescribed in the foregoing part of this act, (after thirty days' previous notice or request to do the same, made in writing by any person,) such railroad company shall forfeit and pay for each and every day that said company or other party shall refuse or neglect to comply with the foregoing provisions of this act, any sum not exceeding fifty dollars per day, to be recovered in a civil action in the name of the State of Ohio for the use of the county in which suit is brought.

How recovered and for what use.

SEC. 6. This act shall take effect and be in force from and after its passage.

S. W. GILSON,
Speaker pro. tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

AN ACT

To repeal an act entitled "an act further defining the duties of county treasurers," passed April 8, 1856, and the act amendatory thereto, passed April 10, 1857.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled "an act further defining the duties of county treasurers," passed April 8, 1856, and the act entitled "an act to amend the act further defining the duties of county treasurers, passed April 8, 1856," passed April 10, 1857, be and the same are hereby repealed. Provided that the county treasurers who shall have retained funds in their hands for disbursement under the provisions of the acts hereby repealed, shall settle and account with the several boards of township trustees, and education, and council of municipal corporations to which said funds may belong, and upon such settlement, shall pay over to the proper local treasurers any balances remaining in the hands of such county treasurers.

53 Laws 109.

54 Laws.

Proviso as to funds retained for disbursement under repealed acts.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

Supplementary to the act entitled "an act defining the duties of justices of the peace and constables in criminal cases," passed March 27, 1837.

Curwen's R. S. 340.
Curwen's Laws 430.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in the prosecution of all offenses whereof justices of the peace have jurisdiction to try and punish by fine or otherwise, after the appearance of the defendant, and before the court shall proceed to inquire into the merits of the cause, the defendant may demand to be tried by a jury, in which case the justice shall proceed to inquire into the complaint, and commit, discharge or recognize the accused, and the same proceedings shall in all other respects be had by and before the justice, and in the courts of common pleas or probate courts respectively, as is or may be provided by law in other cases for the prosecution of crimes and offenses, the punishment whereof is less than imprisonment in the penitentiary.

Jury trial in certain prosecutions before justices of the peace.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

For the further organization and discipline of the militia and volunteer militia.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections four and five of the act entitled "an act to organize and discipline the militia and volunteer militia," passed March 28, 1857, providing for the enrollment by township assessors of those subject to do military duty and payment therefor, be and the same is hereby repealed.

Sections repealed.

General regulations.

SEC. 2. That beside the blank forms now required of the adjutant general, there shall be issued from time to time, under the authority of the commander-in-chief, such general regulations concerning the organization and government of the militia, as will better promote the discipline and order thereof, and supply such practical details as are needed to make that organization systematic and complete.

Camp of instruction.

SEC. 3. That the commander-in-chief may, if he shall deem the same advisable, order a camp of instruction to be held once a year, for four days, during the period of legal encampments, at which time the officers of the volunteer militia shall be drilled in the school of the soldier and the details of their command.

Application of proceeds of useless arms and equipments.

SEC. 4. That the proceeds of sales of useless arms and equipments hereafter received, shall be applied to the alteration and repair of such collected arms as are of old pattern, but worth alteration and repair; and if there be any balance, the same shall be applied to the purchase of camp equipage, proportioned to the number of arms in use by the state.

Where certain arms to be kept.

SEC. 5. That all arms in possession of volunteer companies shall be kept in armories, and shall not be taken therefrom except for military purposes.

Reduction of division or brigade in certain cases.

SEC. 6. That in all cases where no elections have been held for generals of division or brigade, or vacancies shall hereafter arise through failure to elect, the counties forming such division or brigade territory shall be attached to other divisions or brigades, by order of the commander-in-chief, until the divisions shall be so reduced and defined as to correspond with the nine constitutional judicial districts, and the number of brigades to that of the judicial sub-districts; provided, that no such absorption shall lessen the present number of brigades in Hamilton county, nor affect the command of officers who have been already commissioned.

Adjutant general's department and duties.

SEC. 7. That the adjutant general shall keep the records, volumes and papers of that department in an office at the state house, which he shall hold in common with the quarter-master general, and he shall be allowed for the clerical labor of that office, the sum of four hundred dollars annually, to be paid semi-annually, as the salary of the adjutant general is now paid. He shall make annual report of all matters coming within his department, which report shall be submitted to the governor before each meeting of the general assembly; he shall also, so far as practicable, inspect, and in the absence of the commander-in-chief, review at brigade encampments, make report thereof, and keep accurate accounts of the actual expenses therein incurred, which shall be paid from the contingent fund appropriated to his office, but without further compensation for such service.

SEC. 8. The commander-in-chief shall cause two thousand copies of the acts concerning public arms and the

organization of the militia, with an index thereto, and all needed forms and blanks, to be printed in pamphlet form and distributed, under the direction of the adjutant general, of which number one-fourth shall be bound with substantial cover, for exchange with other states, and for the use of general officers and commandants of regiments, battalions and companies, and the remaining three-fourths shall be bound with paper only.

Copies of acts concerning public arms, &c., and blanks &c. to be printed &c.

SEC. 9. This act shall take effect and be in force from and after its passage

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

Relating to the partition of real estate held in common by religious societies.

Curwen's R. S. 2393; Curwen's Laws, 217.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases where two religious societies or congregations, by gift or purchase, have procured land upon which to erect a house of public worship, and other buildings for church or school purposes, and for a burial ground and cemetery, in common, and either of said societies or congregations shall be desirous of abandoning the joint or common use of said house of public worship or other erections, it shall be competent for the court of common pleas, upon application of either of said societies or congregations, to make partition of the use of said common property, except the burial ground and cemetery, which may continue to be used in common.

What real estate may be partitioned.

SEC. 2 In case said court of common pleas shall order partition of said premises so occupied in common, it shall be necessary to specify in said order for what purpose partition of the use is made, and how and for what purpose the use of the premises allotted to each party shall be occupied, and in no case shall said premises or any part thereof be occupied for any other purpose than the erection of a house of worship and other erections connected therewith.

Order of partition and occupancy of premises.

SEC. 3. The court of common pleas shall in no case order partition of the use of said common property, unless the same can be done in such manner as to occasion no confusion or inconvenience to either party in the separate use of the common property.

Same.

Laws now in force.

SEC. 4. The laws now in force regulating the mode and manner of proceeding for the partition of property held in common, shall be applicable to the proceedings contemplated in this law, and in addition thereto the commissioners appointed by the court shall report to the court, whether in their opinion, partition of the use can be made in such manner as to occasion no confusion or inconvenience to either party, in the separate use of the common property.

Report of commissioners.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

Curwen's R. S. 1885; Curwen's Laws, 1117.

To authorize county commissioners to surrender free turnpike roads in certain cases.

The surrender.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners of the several counties in this state shall have power, whenever, in their opinion, the public interest will be subserved thereby, to surrender to any turnpike company, now existing or hereafter to be created or organized under the laws of this state, any free turnpike or other road in any county or counties in this state, and direct that the taxes levied and collected under the act to which this act is supplementary, shall be paid over to such turnpike company, in cases in which such taxes shall not have been disposed of under the act to which this is supplementary, to be expended in constructing or repairing the road, to construct or repair which the same was levied.

Taxes levied and collected.

Certificate of stock for amount of same.

SEC. 2. That any turnpike company receiving such surrender of any such free turnpike or other road in this state, or the taxes collected to construct and repair such road, under the act to which this act is supplementary, shall issue to the persons upon whose property such taxes have been levied, certificates of stock for the amount of taxes by them respectively paid, upon which they shall be entitled to dividends, pro rata, as other stockholders may be, upon their stock.

Toll gates and tolls.

SEC. 3. That whenever three consecutive miles of such road have been, or may be, constructed and finished, according to law, the directors of such company may establish a toll gate thereon; and for every additional five miles, fin-

ished as aforesaid, an additional gate, and may demand and receive tolls thereat, at rates not exceeding the rates now allowed by an act to provide for the creation and regulation of incorporated companies in the state of Ohio, passed May 1, 1852, and the acts amendatory and supplementary thereof, to other companies. Swan's R.S. 197.

SEC. 4 That in all elections for directors of such company, each stockholder shall be allowed one vote for each share of stock by him held, and one vote for each fraction greater than half a share. Vote of stockholders.

SEC. 5. That this act be in force upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To organize and regulate an independent militia.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That for the purpose of creating greater efficiency in the militia system, in counties having cities with a larger population than eighty thousand, it shall be lawful for any members of the enrolled militia to embody and organize themselves into independent companies, squadrons, battalions and regiments in manner and form and subject to the provisions and restrictions hereinafter prescribed; and provided such organizations shall be of no charge or expense whatever to the state. Organization of independent companies, &c., in certain counties.

SEC. 2. In each of said counties members of the regularly enrolled militia may organize themselves into companies as hereinafter provided; and each company may ordain and establish such by-laws, rules and regulations as they may deem necessary and proper for their good government, and as may not be inconsistent with this act or the constitution of this state and of the United States. Same. By-laws, &c.

SEC. 3. That in each of said counties, companies may unite and form a battalion to be composed of not less than two nor more than five companies, which companies shall be designated by the numbers 1, 2, 3, 4 and 5, and shall consist of not less than forty (40) nor more than one hundred (100) men, rank and file; and in addition to its complement of officers and men on the active roll, each company may receive and enroll from forty (40) to one hundred (100) contributing members, who shall be subject to such contributions, duties and service as may be prescribed by the rules and regulations of the company. The members of each com- Battalions. Contributing members of company.

Election of officers, &c.

pany shall have power to elect one captain, a first lieutenant and other such officers as may be necessary; and when two companies shall have been duly organized and united, they shall have power to elect a major, an adjutant, a quartermaster, a pay-master and a surgeon; and when four companies shall have united, they shall have power to elect a lieutenant colonel; and when more than five companies shall have been duly organized and united, they may form and organize themselves into a regiment and elect a full complement of regimental officers; all of which said officers so elected shall be commissioned and qualified as officers of like grades in the volunteer militia of the state; and

The command at parade.

at any meeting or parade the senior officer present shall preside or have command.

Character of organizations under this act.

SEC. 4. That said companies or other organizations as herein provided, shall be separate from and independent of any and all other military organizations and commands whatever in the state, and shall be subject solely to the direct call of the governor of the state and of the regularly constituted civil authorities, for the suppression of insurrection and riot, or the repelling of invasions or the enforcement of the execution of the laws according to the provisions of the constitution and the laws of the state, and in all

Requisitions for military force.

cases of demand or requisition for a military force by the sheriff or mayor, it shall be by application to the superior commissioned officer in rank at the time present in the city, town or county where such service is required.

SEC. 5. All such companies, battalions and regiments when organized, shall be armed and drilled as near as practicable in accordance with the system of the United States army for like organizations; and while in actual service,

How companies, &c. to be armed, drilled and governed.

shall be governed by the principles of the military laws of the state and the rules and articles of war of the United States.

Yearly meeting for parade and exercise.

SEC. 6. Every battalion or regiment shall, immediately upon its organization, fix certain days not less than three in number, upon which in each and every year, and at such hours as may be specified, it shall meet for parade and military exercise.

Yearly encampment.

SEC. 7. Every battalion or regiment shall, once in each year during the months of July, August or September, hold an encampment to continue not less than three days; and the officers and soldiers forming such encampment, shall be drilled in accordance with the requirements of the rules and usages of the United States army; and when practicable to be inspected by the adjutant general, and the commandant shall cause five days public notice to be given of the time and place of such encampment.

Who exempt from certain duties.

SEC. 8. Every active and contributing member of such independent companies shall, while a member of such company, be exempt from labor on the public highways of this

state and from service as jurors; and every member who shall have been held to duty, during a period of five years, shall be entitled to a certificate from his commandant showing such service, and shall be exempt from military duty in time of peace.

Use of public arms.

SEC. 9. Such independent companies shall be entitled to the use of the public arms of the state, subject to the same obligations and restrictions as those imposed upon other military organizations in the state.

Uniform.

SEC. 10. The style of the uniform shall be such as each company may adopt, provided that the uniform of all companies organized into a battalion or regiment shall be one and alike, and the uniform of battalion and regimental officers shall correspond therewith.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To amend the act entitled "an act prohibiting any citizen of this state from holding, by appointment, more than one of several offices, therein named, at the same time.

Offices—more than one of which same person shall not hold at same time.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That no citizen of this state shall hold, by appointment or election, at the same period of time, more than one of the offices herein mentioned, to wit: the office of sheriff, county auditor, county treasurer, clerk of the court of common pleas, county recorder, prosecuting attorney, and probate judge; and no incumbent of any of the foregoing offices shall be eligible to hold the office of justice of the peace during the period of time he shall hold such county office.

Swan's R. S. 587.

SEC. 2. That the act entitled "an act prohibiting any citizen of this state from holding, by appointment, more than one of several offices therein named, at the same time," passed February 14, 1840, be and the same is hereby repealed.

SEC. 3. That this act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To amend an act entitled "an act to provide for the recording of land patents," passed March 14th, 1836.

Swan's R. S. 318. Curwen's R. S. 557. Curwen's laws 390.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the act entitled "an act to provide for the recording of land patents," passed March 14, 1836, be so amended as to read as follows:

Record of patents, copies and exemplifications.

SEC. 2. All patents for lands lying within the state of Ohio granted to any person or persons by the president of the United States, and all copies of such patents duly certified under the official seal of the commissioner of the general land office of the United States, and all exemplifications of the record upon the general land office aforesaid of any patent recorded there, may be recorded in the office of the recorder in the proper county in which such lands, or any part thereof, are situate, and the recorder shall be allowed the same fees for recording such patents as are or may be allowed for the recording of deeds and other instruments of writing.

Recorder's fees.

Copies of such record how far evidence.

SEC. 3. Copies of such record heretofore or hereafter made, duly certified by the recorder under his official seal, shall be received in all courts and places within this state as prima facie evidence of the existence of such patents, and as conclusive evidence of the existence of such record.

Act repealed.

SEC. 4. That the original act entitled "an act to provide for the recording of land patents," passed March 14th, 1836, be and the same is hereby repealed.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

Curwen's R. S. 363; Curwen's Laws, 452.

AN ACT

To punish trespassers on public and other lands.

Offense defined.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any person who shall wrongfully and without lawful authority cut down, fell, box, bore, or otherwise injure or destroy any living tree or trees standing or growing on any lands the property of the state of Ohio, or of any public or private incorporated company, or of any other person or persons, or shall otherwise trespass thereon,

Penalty.

shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars nor less than one dollar, or be

imprisoned in the county jail not exceeding twenty days, or both, at the discretion of the court.

Prosecutions.

SEC. 2. All prosecutions under this act shall be by indictment before the court of common pleas in the county where the offense shall have been committed: provided, that on complaint before a justice of the peace of the county where any offense shall have been committed, if the offender elect to plead guilty, the justice may, at his discretion, enter his plea, and proceed to pass sentence, and cause the same to carried into execution.

Swan's R.S. 298.

SEC. 3. That the act entitled "an act to punish trespasses on the public lands," passed March 31st, 1837, be and the same is hereby repealed: provided, that this repeal shall not affect any offense heretofore perpetrated contrary to the provisions of said act, but the same may be prosecuted as if this act had not been passed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To amend and supplementary to an act entitled "an act to provide for the establishment and government of reform schools," passed April 2, 1858.

55 Laws, 27.

Additional expenditure authorized on present buildings on reform farm.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of commissioners for reform schools are hereby authorized to expend upon the buildings now erected upon the state reform farm twelve hundred dollars in addition to the amount fixed by law in section nine of the act to which this is supplementary: provided that such additional expense shall be confined to useful and necessary improvements.

Aiding and abetting escape of youth therefrom or harboring or concealing, &c.

SEC. 2. Any person that shall entice any youth detained upon the state reform farm to escape, or aid and abet him in his escape, or shall, after his escape, knowing him to be a fugitive from said state reform farm, harbor him, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined in a sum not exceeding one hundred dollars, or confined in the county jail for a period not exceeding six months, or both, at the discretion of the court.

Penalty.

Reform farm a special road district, chief officers' power as to roads.

SEC. 3. The state reform farm is hereby declared to be a special road district, and the chief officer upon said farm is hereby vested with all the powers of a supervisor of roads for said district. He is authorized to alter the public roads upon said farm in such manner as shall be found necessary for the general plan and outline of the same: provided, however, that no alteration shall be made by which existing roads shall be greatly lengthened, or their grade materially increased, or their general use to the public materially impaired: and provided further, that such alterations

be approved by the county commissioners of the county of Fairfield.

City reformatories.

SEC. 4. The city council of any city in this state are hereby authorized to apply such pecuniary aid as they may deem proper, but not to exceed three thousand dollars in any one year, towards the establishment of one or more reformatories in said city, of such a character as is fixed by law in sections sixteen and seventeen of the act to which this is supplementary.

Board of commissioners.

SEC. 5. That section six of the act to which this act is supplementary be so amended as to read as follows: Sec. 6. The said board of commissioners shall continue to consist of the three members now appointed for the period of their appointment, and their powers and duties shall be as designated in this act. Their successors shall be appointed by the governor, by and with the advice of the senate, one of their number being designated by the appointing power aforesaid, acting commissioner, and all of them to hold their offices for three years from the day of their appointment, and until their successors are appointed and qualified, unless vacancies occur from death, resignation or removal, for cause as herein provided. Said commissioners shall, before entering upon the duties of their office, take an oath or affirmation as required by the constitution of this state, and also give such bond in such amount, and with such security, as may be approved by the governor, said bond to be deposited with the treasurer of state. The acting commissioner shall receive a salary not exceeding eighty-four dollars per month, to be paid quarterly, and to be fixed by the said board of commissioners, by and with the advice and consent of the governor, but no other fees, perquisites, or personal expenses whatever, and the two advisory commissioners shall receive five dollars per diem for the time actually employed, but no traveling or other expenses or fees whatever. The acting commissioner shall reside upon the farm and devote all his time to the duties of his office. The board may appoint a matron to reside upon the farm at a compensation not exceeding two hundred dollars per annum. The board shall meet at least once a month; but no per diem shall be paid to any commissioner for more than forty-five days in any one year; and the salary and per diem shall be paid out of the treasury of the state, on the order of said board of commissioners upon the warrant of the auditor of state.

Their successors—how appointed, &c

Acting commissioner.

Oath and bond.

Salaries.

Per diem.

Residence and duties of acting commissioner.

Meeting of board.

Payment of salary and per diem.

Secs. repealed.

SEC. 6. Sections 6, 18, 19, and 20 of the act to which this is amendatory, are hereby repealed.

SEC. 7. This act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
March 26, 1859. *President of the Senate.*

AN ACT

To amend an act entitled "an act to establish alterations in state and county roads," passed March 25, 1854.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the first section of the act entitled "an act to establish alterations in state and county roads," be and is hereby amended so as to read as follows: Sec. 1. That all alterations of state or county roads, that are now or shall hereafter be lawfully made and established, shall form a part of said road, and so much of the original road as lies between points at which the alteration intersected, or intersects, shall be and remain vacated.

Alterations to form a part of road.

Superseded part to be vacated.

SEC. 2. That the original section one to which this is an amendment, is hereby repealed.

Sec. repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To amend the act passed March 17, 1856, supplementary to an act passed March 2, 1853, to provide for draining and reclaiming certain swamp and overflowed lands.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the act passed March 17, 1856, entitled "an act supplementary to an act entitled 'an act to provide for draining and reclaiming swamp and overflowed lands granted to the state of Ohio by an act of congress approved September 28, 1850,' passed March 2, 1853," be so amended as to read as follows: Section 1. That the county commissioners in any county in which any of such swamp or overflowed lands may be situate, and for the draining and reclamation of which contracts have heretofore been or shall hereafter be let, under the provisions of the act to which this is supplementary, may, at their discretion, renew or extend the time of performance of such contracts when the same have expired or are about to expire by the limitation of said act, upon the same terms as originally made, said contracts not to be renewed, or the time of performance thereof extended, for a term of more than two years beyond the time of their expiration under the act to which this is supplementary.

Contracts for draining &c. may be renewed or time of performance extended, &c.

SEC. 2. That the first section of the act of which this is amendatory be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To authorize county agricultural societies to sell fair grounds in certain cases.

The sale and disposition of purchase money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any county agricultural society in this state shall desire to sell its site for holding county fairs, for the purpose of purchasing another site, the society may sell the same in such manner and on such terms as it may deem proper, and the money arising from the sale, when paid, shall be paid by the purchaser to the county treasurer, who shall not pay it out only upon the certificate of the president and secretary of the society that the same is to be used in the purchase or improvement of another site, which site said certificate shall show to have been purchased; and in counties where the county has paid any portion of the purchase money for the site proposed to be sold, the written consent of the county commissioners shall first be given to the sale of the same, nor shall the money be paid out of the treasury without their consent.

The conveyance.

SEC. 2. Conveyances of ground sold under this act, which are owned exclusively by any society, may be executed by the president of the society as such president; and grounds owned partly by the society and partly by the county, may be conveyed by deed executed by the president of the society, as such president, and by the county commissioners.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To amend an act entitled "an act to regulate the sale of school lands and the surrender of permanent leases thereto," passed April 16, 1852. Swan's R S. 831.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section second of said act be so amended as to read as follows: Sec 2. The trustees of any original surveyed township to which such lands may belong shall, at least thirty days prior to taking of any such vote, cause not less than eight notices to be posted up in as many of the most public places of such township, notifying the legal voters resident therein to meet at some convenient place and time therein specified, and then and there cast their ballots for or against the sale of any such lands belonging to such township, and if such vote result in a refusal to sell said lands, the trustees may in the same manner authorize the taking of a subsequent vote or votes as often as they may deem proper; provided that no such subsequent vote shall be taken until one year shall have elapsed since the last preceding vote. How vote upon question of sale taken.

SEC. 2. That the second section of an act entitled "an act to regulate the sale of school lands and the surrender of permanent leases thereto," passed April 16th, 1852, be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To prevent the running at large of swine.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for the owners of any swine in the State of Ohio, said swine being of the age of sixty days or more, to suffer the same to go at large off of the lands of said owner, unless the noses of such swine shall have been so cut, or rings shall have been so inserted therein, as to effectually prevent their rooting. Preventing section.

SEC. 2. Any owner of swine suffering the same to go at large, contrary to the first section of this act, shall be liable to a penalty of one dollar for every swine so found going at large. Penalty.

Suits to recover it.

SEC. 3. All suits to recover the penalty provided for in the second section of this act, shall be brought in the name of the State of Ohio, on complaint of any person feeling aggrieved, and may be brought before any justice of the peace or other court having competent jurisdiction where the offense is committed; and the party offending shall, on conviction, pay the amount of penalties adjudged, with costs; and shall further be liable to any person or persons for all damage he or they may have suffered by the running at large of such animals. All moneys collected as penalties by virtue of this act, shall be paid into the treasury of the township where the offense was committed, for the use of common schools therein.

Damages.

Disposition of penalty.

SEC. 4. This act shall take effect and be in force from and after the first day of May, 1859.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

Requiring township clerks to give bonds.

The bond.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That each and every person, elected and qualified to the office of township clerk, shall, previously to entering on the duties of his office, give bond, with at least two good sureties, to the trustees of such township, and their successors in office, in such sum as the trustees may deem proper, conditioned for the faithful performance of his duties by virtue of said office; which bond shall be lodged with the treasurer of the township; and if the said bonds, or any of them, shall become forfeited, the township treasurer, by order of the trustees, is hereby authorized and required to sue for and collect the same, for the use of the township.

Where to be deposited.

Suit thereon.

SEC. 2. This act to be in force from and after the first Monday of April, 1859.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To protect gas companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person, who, with intent to injure or defraud any gas company, body corporate or individual, shall make or cause to be made, any pipe, tube, or other instrument or contrivance, or connect the same or cause it to be connected, with any main service pipe, or other pipe for conducting or supplying illuminating gas, in such manner as to connect with and be calculated to supply illuminating gas to any burner or orifice by or at which illuminating gas is consumed around or without passing through the metre providing for measuring and registering the quantity of gas there consumed, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment not exceeding thirty days in the county jail, or by fine not exceeding two hundred and fifty dollars; or both at the discretion of the court.

Offense of conducting gas from main pipe.

SEC. 2. *And be it further enacted*, That if any person or persons shall construct, or shall procure the same to be done, or shall use or cause to be used, any false metre provided for measuring and registering the quantity of gas consumed by any person or persons under a contract with any gas company in this state, with intent to defraud such person or persons, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the jail of the proper county any time not exceeding thirty days, or by fine not exceeding five hundred dollars, or both at the discretion of the court.

Or of making or using false metres, &c.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To amend section 6 of "an act to amend the act entitled 'an act to provide for the organization of cities and incorporated villages,'" passed March 11, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section 6 of the "act to amend the act entitled 'an act to provide for the organization of cities and incorporated villages,'" passed March 11, 1853, be so amended as to read as follows: Section 6. The city council of any city in which water-works are or may be situated, or in

Swan's R. S. 981.

Trustees of water-works.

progress of construction, shall establish a board of three trustees, to be known as the trustees of water-works, who shall be elected by the qualified electors of the city, and hold their offices for the term of three years, except at the first election under this act, at which one person shall be chosen for one year, one person for two years, and one for three years; and thereafter one of the trustees shall be elected annually. The trustees of water-works shall manage, conduct and control the city water-works, furnish supplies of water, collect water rents, and appoint all necessary officers and agents; and the amount of the salaries of said officers or agents so appointed, and the term of office, shall be determined by the trustees. The trustees of water works shall be authorized to make such by-laws and regulations as they may deem necessary for the safe, economical and efficient management and protection of the works, and the said by-laws shall be of the same validity as the city ordinances; provided they are not made repugnant to the ordinances of the city, constitution or laws of the state of Ohio. The trustees of water-works shall cause a report to be made monthly to the city council, of the receipts and disbursements of money belonging to the works, and annually make a report of the condition of the works, and cause the same to be printed for the benefit of the public, and cause all money received and collected for water-works purposes to be deposited with the city treasurer, and cause receivers or collectors of water-works funds to make such deposits weekly, and return a receipt for the amount deposited to the trustees or their authorized agent, and all money so deposited with the city treasurer on account of the water-works, shall be kept a separate and distinct fund for the payment of such indebtedness of the water-works as is hereinbefore mentioned, and, together with the amount of the interest allowed to the city treasurer upon the water-works funds, which shall be deposited by him in such place as the city council shall order, shall be subject to the order of the trustees of water-works of the city in which such water-works are or may be situated; and all orders, made by the trustees of water-works on the city treasurer for money, shall be signed by one of the trustees, and countersigned by the secretary or clerk of the water-works. The trustees of water-works shall also be authorized to make contracts for the building of machinery, water works buildings, reservoirs, and for all other necessary purposes to the full and efficient management and construction of such water-works. And they shall also be authorized to make contracts, in the name of the city, for the purchase or lease of real estate upon which to build such water-works or reservoirs; provided, however, that all such contracts for the purchase or lease of real estate shall be approved by the city council. The city council shall hereby be authorized, for such purpose, upon

petition of the trustees of water-works, to borrow, or issue the bonds of the city for any sum of money, not exceeding two hundred and fifty thousand dollars, at a rate of interest not to exceed six per cent. per annum; and to provide by taxation for the payment of the rents contracted for on the leases above mentioned, or the payment of the interest on the bonds aforesaid. Said bonds to be sold at par. Said sum to be made use of for water-works purposes and none other; Provided, that before the city council shall be authorized to issue the said bonds, they shall submit to the qualified voters of the said city, at any regular or special election, a proposition for or against the issue thereof, which shall receive the affirmative vote of a majority of all the votes cast upon the proposition.

SEC. 2. That section 6 of the act to which this is amendatory, be and the same is hereby repealed. This act to take effect from and after its passage. Sec. repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

Supplementary to an act to regulate the election, contest of election, and the resignation of justices of the peace, passed March 11, 1853. Swan's R. S. 532 a.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all cases where the corporate limits of any city or incorporated village are now or hereafter may become co-extensive with the limits of any township in which said city or incorporated village is or shall be situated, and in cases in which the township has been or may become merged in any city or incorporated village, the corporate existence of such township shall nevertheless continue for the purpose of electing therein justices of the peace and constables for such township, who shall be voted for on the same piece of paper. Election of justices and constables in townships within limits of city, &c.

SEC. 2. In all such cases, justices of the peace and constables, to the number now allowed, or which may be hereafter allowed, to such township, may be elected by the qualified voters thereof, at the times and in the manner now or hereafter to be prescribed for the election of justices of the peace and constables in other townships, except that in townships wherein the office of township trustee has been abolished, all the rights, powers and duties in connection with such election devolving upon township trustees in other Same.

townships, shall be devolved upon and be performed by the city council of such city and the trustees of such incorporated village aforesaid.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Providing for the vacating of roads dedicated by private persons to public use.

How done.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That where a road has been or shall hereafter be dedicated by private persons to public use, a majority in interest of the proprietors of lands lying upon said road may, after having given thirty days notice by advertisement in one or more newspapers of the county in which said road is located, and having given notice in the township or townships where said road is located, by having posted up copies of said notice in three or more public places in said township or townships at least thirty days previous, petition the commissioners of said county for the vacation of said road or any part thereof; and if said commissioners are satisfied that said notice has been given and that no injustice will be done thereby, they shall declare the same vacated: provided, that all costs and expenses accruing upon any petition under this act shall be paid by the petitioners.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To authorize the adoption of children.

Proceedings to be had.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That any inhabitant of this state not married, or any husband and wife jointly, may petition the probate

court of their proper county for leave to adopt a minor child not theirs by birth, and for a change of the name of such child; but a written consent must be given to such adoption by the child, if of the age of fourteen years, and by each of his or her living parents who is not hopelessly insane or intemperate; if there be no such parents, or if the parents shall be unknown, or have abandoned such child, or if such parents or either of them are hopelessly insane or intemperate, then by the legal guardian; if there be no such guardian, then by a discreet and suitable person, appointed by said court to act in the proceedings as the next friend of such child.

Same.

SEC. 2. That if the petition shall be filed by husband and wife, the court shall examine the wife separate and apart from her husband, and shall refuse leave for such adoption, unless the court shall be satisfied, from such examination, that the wife, of her own free will and accord, desires such adoption.

Order of court.

SEC. 3. That upon the compliance with the foregoing provisions, if the court shall be satisfied of the ability of the petitioner or petitioners to bring up and educate the child properly, having reference to the degree and condition of the child's parents, and shall be satisfied of the fitness and propriety of such adoption, the court shall make an order setting forth the facts, and declaring that, from that date, such child, to all legal intents and purposes, is the child of the petitioner, and that the name of such child is thereby changed.

Effect of it.

SEC. 4. That by such order the natural parents shall be divested of all legal rights and obligations in respect to such child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, the child and legal heir of his or her adopter or adopters, entitled to all the rights and privileges and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock: provided, that on the decease of parents who have adopted a child or children under this act, and the subsequent decease of such child or children without issue, the property of such adopting parents shall descend to their next of kin, and not to the next of kin of such adopted child or children.

SEC. 5. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To amend section 69 of an act passed May 3, 1852, entitled "an act to provide for the organization of cities and incorporated villages."

Swan's R. S. 971.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section sixty-nine of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, be so amended as to read as follows: Section 69. The qualified voters of each city of the second class shall elect a city marshal, who shall hold his office for one year; a city treasurer, who shall hold his office for one year; a city clerk, who shall hold his office for two years; and a city solicitor, who shall hold his office two years. Each of said officers shall continue in office until his successor is elected and qualified, and shall have such powers and perform such duties as are prescribed by any ordinance of the city not inconsistent therewith.

Election of marshal, treasurer, clerk, solicitor.

Terms of office.

Sec. repealed.

SEC. 2. That the said original section sixty-nine be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Swan's R. S. 670.

To amend section 374 of an act entitled "an act to establish a code of civil procedure," passed March 11, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section three hundred and seventy-four of an act entitled "an act to establish a code of civil procedure," passed March 11, 1853, be so amended as to read as follows: Sec. 374. In the foreclosure of a mortgage, a sale of the mortgaged property shall in all cases be ordered; and when the same mortgage embraces separate tracts of land, situated in two or more counties, the sheriff of each county in which such separate tract or tracts are situated, shall be ordered to make sale of the lands situated in the county of which he is sheriff.

Sale of mortgaged property.

Sec. repealed.

SEC. 2. That section three hundred and seventy-four of the act entitled "an act to establish a code of civil procedure," passed March 11, 1853, is hereby repealed.

SEC. 3. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Supplementary to an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3d, 1852. Swan's R. S. 955.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of all cities of the first class, which, at the last federal census, had a population exceeding eighty thousand, shall have power to provide for the punishment of vagrants, common street beggars, common prostitutes, habitual disturbers of the peace, known or reputed pickpockets, burglars and thieves, watch stuffers, ball-game players, persons who practice any trick, game or device with intent to swindle, persons who abuse their families, and suspicious persons who can give no reasonable account of themselves; and such punishment may be either by imposing and collecting fines or by imprisonment at hard labor, or both at the discretion of the court: provided that no such person shall be fined for a single offense to exceed fifty dollars, and that such imprisonment at hard labor shall, for the first offense, not exceed thirty days, for the second offense, ninety days, for the third offense, six months, and for the fourth or any further repetition of the offense, one year. They shall have power to provide that all persons who shall refuse or neglect to pay the fine imposed on conviction of any offense, together with the costs of prosecution, shall be imprisoned and kept at hard labor until, at the rate of seventy-five cents for each day's labor, exclusive of Sundays, they shall have earned an amount equal to such fine and costs. They shall also have power to make suitable regulations to conduct such labor to the best advantage, and in a manner consistent with the age, sex and health of the prisoners, and such labor may be done at the city prison, the city work-house, or elsewhere, if within a suitable inclosure, and under the charge of such officers or other persons as the city council may select. And the said city council may also provide suitable hospitals for the reception and care of such prisoners as may be diseased or disabled, the same to be under such regulations and under the charge of such person as the council may by ordinance direct.

Cities of certain population empowered to punish certain classes of persons named, &c.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To amend the fourth section of an act entitled "an act to authorize the making of real estate indexes, and further to prescribe the duties of county commissioners and recorders in certain counties," passed February 14th, 1859.

55 Laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section four of an act entitled "an act to authorize the making of real estate indexes, and further to prescribe the duties of county commissioners and recorders in certain counties," be so amended as to read as follows: Sec. 4. For every entry in such general index of any lot, piece or parcel of land, the recorder shall be allowed the sum of ten cents, to be paid by the person leaving such instrument of conveyance or transfer for record.

Recorder's fees.

SEC. 2. Section four of the above recited act is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To prevent and punish fraud in the use of false stamps, brands, labels, or trade marks.

Offense defined and penalty.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person or persons who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited any representation, likeness, similitude, copy or imitation of the private stamp, brand, wrapper, label, or trade mark, usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to and upon the goods, wares, merchandise, preparation or mixture of such mechanic, manufacturer, druggist, merchant or tradesman, with intent to pass off any work, goods, manufacture, compound, preparation or mixture, to which such forged or counterfeited representation, likeness, similitude, copy or imitation is affixed or intended to be affixed as the work, goods, manufacture, compound, preparation or mixture of such mechanic, manufacturer, druggist or tradesman, shall upon conviction thereof, be imprisoned in the county jail for a period of not less than three months nor more than twelve months, and fined not exceeding five hundred dollars.

Same.

SEC. 2. That any person or persons who shall have in his or their possession any die or dies, plate or plates, brand or brands, engraving or engravings, or printed labels, stamps, imprints, wrapper or trade marks, or any representation, likeness, similitude, copy or imitation of the private stamp, imprint, brand, wrapper, label, or trade mark usually affixed by any mechanic, manufacturer, druggist, merchant or tradesman, to or upon articles made, manufactured, prepared or compounded by him or them, for the purpose of making impressions, or selling the same when made, or using the same upon any other article made, manufactured, prepared or compounded, and passing the same off upon the community as the original goods, manufactures, preparations or compounds of any other person or persons, or who shall so in fact sell or use the same, or who shall wrongfully and fraudulently use the genuine stamp, brand, imprint, wrapper, label, or trade mark, with intent to pass off any goods, wares, merchandise, mixtures, compounds, or other article not the manufacture of the person or persons to whom such stamp, brand, imprint, wrapper, label or trade mark properly belongs, as genuine and original, shall, upon conviction thereof, be imprisoned in the county jail not less than three months nor more than twelve months, and be fined not exceeding five hundred dollars.

Same.

SEC. 3. That any person who shall vend or keep for sale any goods, merchandise, mixture or preparation, upon which any forged or counterfeit stamps, brands, imprints, wrappers, labels or trade marks be placed or affixed, and intended to represent the said goods, merchandise, mixture, or preparation, as the true and genuine goods, merchandise, mixture or preparation of any other person or persons, knowing the same to be counterfeit, shall on conviction thereof, be punished by a fine not exceeding one hundred dollars; in each case so offending, the complainant entitled to one-half the amount so recovered.

Seizure and destruction of false dies, brands, and plates.

SEC. 4. That it shall be lawful for any justice of the peace within this state, upon affidavit being made by any mechanic, manufacturer, druggist, merchant, or tradesman, or his or their agent or attorney, that he has good reasons to believe, and does believe, that any dies, plates, stamps, or brands are in the possession of any person within his county for the purpose of making false and counterfeit stamps, brands, imprints, labels, or trade marks, to issue a search warrant, authorizing the search for and seizure of all such dies, stamps, brands or plates, and all such impressions from the same that can be found; and upon satisfactory proof being made that such dies, stamps, brands or plates, or the impressions therefrom, are to be used for the purposes of deception and fraud, such justice shall have full power to

order all such stamps, dies, brands and plates, and the impressions therefrom, to be publicly destroyed.

SEC. 5. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To amend an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852.

Swan's R. S. 961.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section twenty-three of "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852, be so amended as to read as follows: Sec. 23. They shall have power to regulate the burial of the dead; to provide without the limits of the corporation, places for the interment of the dead, and to enact and enforce such ordinances as shall be necessary for the improvement and protection of said places of interment; and to prevent any such interment within such limits, and to carry into effect any prohibition against interments within the limits of the corporation, may not only impose proper fines and penalties, but shall also have power to cause any body, interred contrary to such prohibitions, to be taken up and buried without the limits of the corporation.

Interments.

SEC. 2. That the original section twenty-three aforesaid, be and the same is hereby repealed.

Sec. repealed.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

Supplementary to and to amend an act "concerning the relation of guardian and ward," passed April 12th, 1858.

55 Laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section 22 of said act shall be so amended as to read as follows: Sec. 22. The guardian of the person and estate, or of estate only, shall have power, when

The sale of the personal and real estate of minors.

for the interest of the ward, to sell all or any part of the personal estate of the ward; and whenever necessary for the education, support or payment of just debts of any minor, or for the discharge of any liens on the real estate of such minor, or whenever the real estate of such minor is suffering unavoidable waste, or a better investment of the value thereof can be made, and the court shall be satisfied that a sale thereof will be for the benefit of any minor, the probate court, by whom a guardian of the person and estate, or of the estate only, has been appointed, may, on the application of such guardian, order the real estate of such minor, or a part thereof, situate in this state, to be sold.

Appraisal and sale of the real estate.

SEC. 2. That section twenty-five be so amended as to read as follows: Sec. 25 At the time appointed for the hearing of said petition, and being satisfied that the notice named in the last preceding section has been given, and that such real estate ought to be sold, the court shall appoint three freeholders of the county in which said real estate shall be situated, who are not of kin to the petitioner, to appraise said real estate, and the same shall not be sold for less than two-thirds of the appraised value thereof.

Order of sale—Notice—terms.

SEC. 3. That section twenty-eight be so amended as to read as follows: Sec. 28. Upon such bond being filed and approved by the court, the court shall order the sale of such real estate, providing in the order for reasonable notice, and the place of such sale in the county in which such real estate shall lie, and the credit to be given for the payment of the purchase money, and the deferred payments of the purchase money shall be secured by a mortgage, executed by the purchaser, upon the real estate sold, and they shall bear interest at the rate of six per centum per annum, from the day of sale, payable annually.

Marriage of female guardian.

SEC. 4. That section thirty-four of said act be so amended as to read as follows: Section 34. When any unmarried woman, who has been or may be appointed guardian of any minor, shall marry, such marriage shall of itself determine the guardianship of such woman; and the probate court of the proper county shall appoint another guardian for such minor, to which last named guardian all the estate of such minor shall, on demand, be delivered up by such former guardian; and she shall forthwith render her guardianship account to the court from which she received her appointment, for final settlement.

Her account and settlement.

Binding the ward out to service.

SEC. 5. Any guardian of the person and estate, or of the person only, heretofore or hereafter appointed, for any female under or over the age of twelve years, or any male under or over the age of fourteen years, may, if it be necessary, bind such minor to any suitable person, until such minor, if a male, shall arrive at the age of twenty-one years, and if a female, at the age of eighteen years; provided, that before the indenture whereby any minor may

be bound to service according to this section shall be valid in law, the person to whom such minor shall be bound as aforesaid, and also the terms and covenants in such indenture, shall be approved by the court by whom such guardian was appointed, and a certificate of the judge of said court, with the seal of such court, shall be attached to such indenture, in testimony of such approbation.

Secs. repealed. SEC. 6. Original sections 25, 28 and 34, are hereby repealed, and this act to take effect from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

Swan's R.S. 514. To amend section ninety-one of an act entitled "an act of the jurisdiction and proceedings before justices of the peace, and of the duties of constables in civil courts," passed March 14, 1853.

Who to pay costs on appeal. SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section ninety-one of the above recited act be so amended as to read as follows: Sec. 91. If on appeal by the plaintiff from a judgment in his favor, he shall not receive a larger sum than twenty dollars, exclusive of interest, since the rendition of the judgment before the justice, he shall be adjudged to pay all costs in the court of common pleas, (including a fee of five dollars for the defendant's attorney;) and if the defendant shall demand a set-off greater than twenty dollars, and he appeal from a judgment rendered in his favor, and do not recover twenty dollars, he shall in like manner pay all costs in the appellate court, including a like fee to the plaintiff's attorney.

Sec. repealed. SEC. 2. Original section ninety-one is hereby repealed, and this act to take effect and be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
March 30, 1859. *President of the Senate.*

AN ACT

Swan's R.S. 415. To amend section thirty-one of an act entitled "an act regulating the fees of county auditors," passed March 19, 1838, and took effect May 1, 1838.

Fees of county auditor, and items thereof. SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section thirty-one of the above recited act be and is hereby amended so as to read as follows: That

hereafter the several county auditors in this state shall be allowed the following fees and compensation, to be paid out of the county treasury, where not otherwise provided for, viz: For making out original tax duplicate, for every hundred words, and counting every two figures as a word, but excluding calculations not carried into duplicate, ten cents; for each copy thereof, for every hundred words, counting three figures as a word, ten cents; for recording proceedings of commissioners and other recording required of him by law, for every hundred words, ten cents; for every order drawn on county treasury, and evey certificate to pay money into the treasury, five cents; for filing and entering into a book, each receipt for money paid into county treasury, five cents, and for all other papers necessary to be placed on file, exclusive of certificates for road tax and assessors' statements, five cents; for attending as clerk of commissioners, as a member of board of equalization, for settling with county treasurer, and making distribution of school funds, two dollars per diem; for making reports on schools, as may be required by school law, two dollars per day; for each circular furnished to printer, at the rate of fifteen cents per hundred words; for every road bond, twenty-five cents; for each order for view and survey of a road, fifty cents; for each order for opening road, twenty-five cents; for attending and keeping minutes of sale of section sixteen, three dollars per diem; for crier of sale of section sixteen, three dollars per diem; for certificate of sale of school lands, to be paid by purchaser, fifty cents; for certificate of payment of instalment on school lands into treasury, to be paid by purchaser, twenty-five cents; for final certificate of payment for school lands, to be paid by the purchaser, one dollar; for certificate of sale of land for taxes, to be paid by purchaser, ten cents; for deed of land, sold for taxes, to be paid by purchaser, one dollar and twenty-five cents; for every entry or transfer of land for taxation, to be paid by person requiring the same, ten cents, but the whole fees for transferring any one deed shall not exceed one dollar; and for all other services required by law, when the compensation is not particularly specified, the same fees as are allowed by this act for like services.

Sec. repealed.

Sec. 2. That the original section thirty-one of an act, passed March 19, 1838, and took effect May 1, 1838, entitled "an act regulating the fees of county auditors," be and the same is hereby repealed.

Sec. 3. This act to take effect and be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

Relating to jurors.

Swan' R. S. 433 and 434.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled "an act to encourage the organization of fire companies, and to repeal former acts," passed on the 8th day of February, 1847, and the act entitled "an act to encourage the organization of fire companies," passed on the 13th day of March, 1843, be and the same are hereby repealed.

Who exempt from serving as jurors.

SEC. 2. That hereafter active members of fire engine, hook-and-ladder companies or other companies for the extinguishment of fire or the protection of property at fires, shall, during the time they may continue active members of any such companies, be exempted from serving as jurors; that all clergymen and priests, physicians, and all public officers, while in office, shall be excused from serving as jurors; excepting in incorporated villages having less than twelve hundred inhabitants.

Same.

SEC. 3. That in all cases where any person has served as a juror for three weeks in any one year, either as grand or petit juror, he shall be excused from any further service as such juror during the balance of the year.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

To extend the privileges of gas companies.

Extending gas pipes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any gas company in any city or incorporated village in this state, organized in pursuance of any of the laws of the same, to extend their pipes used for conveying gas to the various localities and inhabitants of such city or incorporated village to any point, place or places in the vicinity of such city or incorporated village,

Proviso.

outside the corporate limits thereof: provided, the right of way be obtained from the corporate or other authorities, or of any person or persons, place or places, to be affected by such extension.

SEC. 2. This act to be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

Supplementary to an act entitled "an act to establish a code of civil procedure," passed March 11, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever a party to a judgment seeks to enjoin the collection thereof by injunction, and shall make an affidavit that the party sought to be enjoined is a non resident of the state, or has left the same to avoid the service of the summons or order of injunction, or so conceals himself that process cannot be served upon him, the sheriff, or other officer, having in his hands the execution issued on such judgment, may be made a party defendant to the action; and the action may be brought in the county in which such officer resides; and in all such cases the party to the judgment sought to be enjoined and upon whom actual service cannot be made, may be served by publication of notice in the manner prescribed by sections seventy-one and seventy-two of the act to which this is supplementary. And such service shall be proved in the same manner as is prescribed by section seventy-three of said act.

Swan's R S. 623.

Proceedings to enjoin collection of judgment.

Notice to party to judgment.

SEC. 2. In all cases where service may be made by publication, personal service of a copy of the summons or order of injunction and complaint may be made out of the state.

Same.

SEC. 3. A party against whom a perpetual injunction may be decreed without other service than by publication in a newspaper, may, at any time within five years after the date of such decree, have the same opened and be let in to defend in the same manner and on the same terms as is prescribed in section seventy-five of the act to which this is supplemental.

Opening decree on publication.

SEC. 4. This act to take effect on its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

To amend section two of the act entitled "an act to relieve the district court and to give greater efficiency to the judicial system of the state," passed April 12, 1858, and supplementary to said act.

55 Laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section two of said act be amended so as to read as follows: Sec. 2. Any person desirous of such second trial, as provided for in the preceding section, shall, at the term of the court at which judgment was rendered, enter on

Notice for second trial and undertaking.

the records of the court notice of his demand for such second trial; and shall enter into an undertaking within the time hereinafter limited with security to the satisfaction of the clerk of the court, payable to the adverse party, in such sum as may be fixed by the court, and conditioned to the effect that the party obtaining such second trial shall abide and perform the order and judgment of the court, and pay all moneys, costs and damages which may be required or awarded against him, consequent upon such second trial: provided, that in no case shall administrators, executors or guardians, who may have given bond in this state, with sureties according to law, be compelled to enter into an undertaking in order to be entitled to a second trial as is above provided.

Sec. repealed.

SEC. 2. That said original section two be and the same is hereby repealed.

SEC. 3. That whenever notice is entered upon the records of the court of a party's demand of a second trial under the provisions of the act to which this act is amendatory and supplementary, such second trial shall not be allowed unless the court is of the opinion that the case is one in which a trial by jury may be demanded by either party.

When second trial not allowed.

Order of court allowing or disallowing, &c.

SEC. 4. The opinion of the court allowing or disallowing a second trial, shall be entered upon the journal of the court, and, if in favor of the allowance of a second trial, then the undertaking required by the said second section of said act, as amended, shall be entered into within thirty days after the entry of said allowance.

Appeal from order disallowing.

SEC. 5. If the opinion of the court shall be adverse to the allowance of the second trial, either party may appeal to the district court from the judgment rendered in the case, by giving notice thereof and entering into an appeal bond agreeably to existing statutes.

Proceedings on reversal of such order, or on dismissal of appeal, &c.

SEC. 6. If the order of the court adverse to the allowance of the second trial, shall be reversed upon error by the district court, or if the action shall be appealed and the appeal be dismissed on the ground that a second trial should have been allowed, then and in either case the action shall be remanded to the court of common pleas, and the party or parties on whose petition the said order was reversed, or the party or parties who may have appealed such action, as the case may be, may, at the term of the court at which the mandate is received, enter on the records of the court his demand for a second trial; and thereupon such action shall be proceeded in, in all respects, as if said judgment, so reversed, had been rendered at said term.

Or on reversal of order allowing second trial.

SEC. 7. If the order of the court allowing a second trial shall be reversed for error therein by the district court, then said action shall be retained for trial by the last named court as upon appeal, and the last mentioned court shall fix the amount and condition of the undertaking, to be given to obtain such trial, for the party or parties who may request

it; and thereupon the party or parties desiring such trial shall, within thirty days from the time of the entry of the reversal of the order allowing such second trial, enter into an undertaking in the amount and condition prescribed by the district court, to the acceptance of the clerk thereof, which shall be filed in the office of the said clerk; and thereupon such action shall be proceeded in, in all respects, as if the same had been originally appealed on notice regularly entered and undertaking given pursuant to the act regulating appeals to the district court.

Effect of second trial on lien on real estate.

SEC. 8. In all cases where the party against whom judgment is rendered obtains a second trial under the act to which this act is amendatory and supplementary, the lien of the opposite party on the real estate of the party so obtaining such second trial created by said judgment, shall not be by the obtaining of such second trial removed or vacated, but the real estate of said party so obtaining such second trial shall be bound in the same manner as if said second trial had not been demanded until the final determination of the cause.

SEC. 9. This act shall take effect on the 15th day of April next.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

Supplementary to the act relating to juries, passed February 9th, 1831, and to amend the 9th section of said act.

Swan's R. S. 487.

Apportionment of additional jurors to each township, between October and spring elections, to supply deficiency.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if it shall be made to appear to the clerk of the court of common pleas of any county in this state, after the annual October election, and previous to the annual spring elections, that the number of jurors for said county as provided and required by the first section of the act to which this is supplementary are insufficient, in numbers from which to draw and summons the regular grand and petit juries for the common pleas and district courts, to be holden in said county, previous to the next succeeding annual October election, it shall be the duty of such clerk immediately and previous to said annual spring elections, to apportion among the respective townships in said county, the number of additional jurors required to fill such deficiency according to and upon the basis of apportionment required by the second section of the act aforesaid, and notify the trustees of the several townships in said county, of such insufficiency

Notice to trustees.

with the number of additional jurors so apportioned and required of each township, by written notice, to be served and returned by the sheriff of such county, the same as a summons is served and returned; and it shall be the duty of such trustees, at their meeting at the annual spring elections, upon the service of such notice, to select of good judicious persons, having the qualifications of electors, their apportionment of persons to be returned as such additional jurors, and shall forthwith furnish such clerk with the list of the name or names required as contemplated by this act, and such proceedings shall thereafter be had with reference to the drawing, summoning, &c., of such additional jurors, as is provided by said act for jurors, selected at the annual October elections.

Selection of additional jurors.

List delivered to clerk.

Swan's R. S. 489.

Talesmen of grand jury.

SEC. 2. That section nine of an act entitled "an act relating to juries," passed February 9, 1831, be so amended as to read as follows: That when a sufficient number of grand jurors shall not appear who shall have been drawn and summoned agreeably to this act, before either of the courts at their stated term, or if it should so happen that all the grand jurors summoned as aforesaid, shall fail to attend, it shall and may be lawful for the court in either case, to order the sheriff or other officer, to summon from among the bystanders, or neighboring citizens, so many good and lawful men as are necessary to form and complete the panel of the grand jury, or to issue a special venire facias, to the sheriff, commanding him to summon the persons therein named to attend forthwith to serve as grand jurors.

Special venire.

Sec. repealed.

SEC. 3. That section nine of the act to which this is an amendment, be and the same is hereby repealed.

SEC. 4. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

Relating to the Lewistown Reservoir.

Sum to be paid to settle with company and cancel contract.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That for the purpose of settling with the Miami hydraulic and manufacturing company for the construction of the enlargement of the Lewistown reservoir, and canceling the contract relative to said enlargement between the state and said company, the sum of ninety-one thousand one hundred and sixty-seven dollars and eighty-five cents is hereby directed to be paid said company

by the auditor of state and attorney general, in the manner and upon the terms in this act contained. Terms.

SEC. 2. The auditor of state is hereby directed, immediately upon the passage of this act, to draw his warrant upon the treasury in favor of Boyle & Roach, for the sum of eighteen thousand one hundred and fifty-seven dollars and fifty-seven cents, which sum, when so paid to said Boyle & Roach, shall be deducted out of the amount in the first section of this act directed to be paid said company for said enlargement, and when so paid, the receipt of said Boyle & Roach to the state of Ohio shall be received by said company as so much money, and shall operate as an extinguishment of so much of the cost of the enlargement of said reservoir, and shall forever acquit and discharge said company of all liability to said Boyle & Roach for any claims or demands on the part of said Boyle & Roach against said company on account of said enlargement. Boyle & Roach.

SEC. 3. If the said Miami hydraulic manufacturing company shall not settle with the state and surrender all rights acquired under the contract for the enlargement of said reservoir, and do and perform all other acts required by this act according to the terms thereof, then their right to collect water rents for surplus water of said reservoir of the Miami and Erie canal, shall be suspended; and the board of public works are hereby directed to collect and pay into the state treasury all water rents of said reservoir or canal, until said rents so collected shall be equal in amount to the sum paid Boyle & Roach, and accrued interest thereon, computed at six per cent. per annum. Water rents.

SEC. 4. Upon the settlement with said company for the enlargement of said reservoir, said company shall be charged with all water rents by them collected upon said reservoir and the Miami and Erie canal, and with interest thereon from the time the same were received by said company, computed at the rate of six per cent. per annum; and upon payment of the balance due said company, after the payment of Boyle & Roach and the deduction of the water rents, as in this act directed, said company shall convey to the state of Ohio all lands by them owned and held in connection with said reservoir; and the contract between said company and the board of public works, made under and in pursuance of the act of April 7, 1856, shall be void and of none effect; and all leases made and rights acquired thereunder by said company, to all intents and purposes, shall vest in and be enjoyed by the state of Ohio, and the board of public works, on being notified by the attorney general of the final settlement of all claims as herein provided, shall take possession of said reservoir and its appurtenances, shall contract for and collect all water rents arising out of the lease of the surplus water of the same, or of the Miami and Account of same upon settlement. Duties of company and effect of settlement. Duty of board of public works.

Erie canal, the same as if said contract had never been made. Whenever the said company shall perform the matters and things in this section required, the same shall be taken and held as a surrender of the said reservoir, and of all the rights and interests of said company acquired under the contract for the enlargement thereof, and the auditor of state shall thereupon draw his warrant for whatever balance may be due them after making the deductions in this act directed.

Auditor's warrant.

Stock of company in hands of Johnson, and company's liability to Gibson, Johnson, &c.

SEC. 5. The capital stock of said company negotiated by E. S. Hamlin to William H. Gibson, and shown by the testimony taken by the treasury investigating committee to be in the hands of C. L. Johnson, is hereby declared to be property of the state, and all liability of said company to said Gibson, Johnson, or any assignees of them or either of them, is hereby declared annulled and made void; and the pro rata dividend due said stock, on settlement of said company with its stockholders, is hereby directed to be retained as the money of the state of Ohio; and the same shall be credited to W. H. Gibson upon whatever amount he may be found to owe the state on settlement of his accounts as treasurer of state.

Auditor and attorney general to settle with company.

Payments how made and expenses.

SEC. 6. The auditor of state and attorney general are hereby directed and empowered to settle with said company under and in accordance with the provisions of this act. All payments of money in this act directed shall be made on the warrants of the auditor, drawn in conformity to law; and all expenses incurred by said auditor and attorney general in the execution of this act shall be reimbursed out of the treasury; and this act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To amend section two of an act passed March 11, 1853, to provide for the publication of the general laws in newspapers, and to repeal an act entitled "an act to provide for an early publication of the laws, and for other purposes," passed March 23, 1850.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of an act passed March 11, 1853, to provide for the publication of the general laws in newspapers, and to repeal an act entitled "an act to provide for an early publication of the laws, and for other purposes," passed March 23, 1850, be so amended as to read as follows: Sec. 2. That the auditor of state, secretary of state

and attorney general, as soon as possible after the passage of laws by the general assembly at each session, shall select from the general laws as passed, such as they shall deem of general interest to the people of the state, and the same shall be forwarded by the auditor of state at the earliest practicable moment to the auditors of the several counties, and it shall be the duty of the auditor, probate judge and prosecuting attorney of each county, to contract for the publication of the same, in two weekly or daily newspapers printed therein, if so many there be, having the greatest circulation in the county: provided, that in no case shall the same be published in two papers of one party, if two of opposite politics are published therein, and also in one German newspaper, if there be one in such county, at a price not exceeding sixty cents per thousand ems, to be paid out of their respective county treasuries, as hereinafter provided.

SEC. 2. That the second section of the act above referred to be and the same is hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

Directing the sale of certain lands in Union and Summit counties.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the auditor of state cause to be sold the following lands, belonging to the state, situate in Union county, Ohio, viz: Union county.

One hundred and twenty-seven acres, being part of survey No. 3469, Virginia military land;

One hundred and eighty-nine acres, being part of survey No. 3470;

Also, two hundred acres, being part of surveys Nos. 10,704, 10,705, and any and all other lands, belonging to the state, situate in said county;

Also, the north-east fractional part of the south-west quarter of the south-west quarter of section number seven (7) in range nine, township twelve, Summit county. Summit county.

SEC. 2. The auditor shall cause notice of the time and place of sale, (which shall be at the court house in said counties of Union and Summit respectively,) for six consecutive weeks, in one or more newspapers printed in the Notice of sale.

said counties of Union and Summit, and two newspapers printed in Columbus.

How made.

Report to governor; his deeds

SEC. 3. The sale shall be at public auction, and shall be made to the highest bidder. The sale shall be reported to the governor, and being approved by him, and upon the payment of the purchase money, he shall execute deeds to the purchasers [of] to the same The auditor may commit the conduct of the sale to any discreet person by him to be appointed, who shall be allowed and paid such sum as the governor and auditor shall allow, to be paid out of the treasury in conformity with law.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To limit the operation of the act, entitled "an act to repeal the ten per cent. law, passed March 14, 1850," passed February 25, 1859.

Operation of act limited.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the act entitled "an act to repeal the ten per cent. law, passed March 14, 1850," passed February 25, 1859, shall not apply to any contracts now existing, or that may be made before the taking effect of said act, but said contracts shall be and remain in full force and effect, and upon all judgments rendered upon any of the aforesaid contracts, interest shall be computed until payment at the rate specified therein, not exceeding ten per centum per annum, as though said act, passed February 25, 1859, had not been passed.

SEC. 2. That this act shall take effect and be in force upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To provide for the semi-annual collection of taxes.

Times to pay taxes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That each person charged with taxes on a tax duplicate in the hands of a county treasurer may, at his option, pay the full amount of such taxes on or before the twentieth day of December, or one-half thereof on or before the twentieth day of December, and the remaining half thereof on or before the twentieth day of June next ensuing: provided, however, that all road taxes so charged shall be paid prior to the twentieth day of December, in the manner prescribed by law.

Road taxes.

Installments to be apportioned, etc.

SEC. 2. When taxes charged against the property of any person shall be paid by installments, as aforesaid, each of such payments, exclusive of road taxes, shall be apportioned among the several funds for which taxes shall have been assessed, in their proper proportions.

Manner of placing taxes on duplicate, &c.

SEC. 3. It shall be the duty of the county auditor to set down the amount of taxes charged against each entry in two separate columns, one-half thereof, exclusive of road taxes, in each column, and adding all road taxes to said first half, with a sufficient blank space at the right of each column to write the word "paid," and when payment of either half of such taxes shall be made, the treasurer shall write in the blank space opposite the same the word "paid;" and the auditor of state is hereby authorized to prescribe such other forms for county duplicates as may seem proper to him, and produce uniformity throughout the state; and it shall be the duty of county auditors to conform thereto.

Effect of not paying taxes at times prescribed

SEC. 4. When one-half the taxes, as aforesaid, charged against any entry, on a tax duplicate in the hands of a county treasurer, shall not be paid on or before the twentieth day of December next after the same shall have been so charged, or when the remainder of such taxes shall not be paid on or before the twentieth day of June next thereafter, the county treasurer shall proceed to collect the same by distress or otherwise, as may at the time be prescribed by law, together with a penalty of five per centum on the amount of taxes so delinquent, (which penalty shall be for the use of the treasurer as a compensation for such collection;) and in all cases where such half of any taxes, other than on real estate, shall not have been paid on the twentieth day of December, the whole amount of taxes, other than real estate, for the current year, so charged, shall be due and delinquent, and shall be collected in the manner and with the penalty provided in this section.

Penalty of five per cent.

Same.

SEC. 5. When one-half of the taxes charged against any entry of real estate shall not be paid on or before the twentieth day of December in each year, or collected by distress or otherwise, prior to the next February settlement, as

Penalty of 30 per cent.

authorized by this act, a penalty of thirty per cent. thereon shall be added to such half of said taxes on the duplicate; and if the said taxes and penalty, including the remaining half of such taxes, shall not be paid on or before the twentieth of June next thereafter, or collected by distress or otherwise prior to the next August settlement, the same penalty shall be charged on said last half of said taxes, and the amount of the whole together shall constitute the delinquent taxes on such real estate, to be collected in the manner that is or may be prescribed by law. And if the amount of such delinquent taxes and penalty, together with the one-half of the taxes charged against such real estate for the current year, shall not be paid on or before the twentieth day of December of the same year, the said delinquent taxes and penalty, and the whole of the taxes of the current year, shall be due and collected by the sale of such real estate in the manner that is or may be authorized by law; and in case the first half of the taxes charged upon any real estate shall be paid on or before the twentieth day of December, as provided in this act, but the remaining half thereof shall not be paid on or before the twentieth day of June next thereafter, or be collected by distress or otherwise prior to the next August settlement as provided in this act, then the same penalty shall be added to such unpaid taxes, and the same shall be treated as delinquent taxes, as provided in this act, and, with the taxes of the current year, collected by the sale of such real estate as aforesaid.

List of delinquent lands and lots, and record thereof.

SEC. 6. The county auditor shall, annually, during the month of August, make out and record, in a book to be provided for that purpose, a list of all lands and town lots returned by the treasurer delinquent at the preceding settlement, describing such lands and town lots, in said list, as the same shall be described on the tax duplicate, and charging thereon the unpaid taxes for the year next preceding, together with the penalty thereon, as provided in this act, and also the taxes of the current year; and shall certify the correctness thereof, and the date at which the same was recorded, and sign the same officially.

Delivery of duplicate to treasurer.

SEC. 7. The county auditor shall, annually, on or before the first day of October, deliver to the county treasurer the duplicate of taxes required by law to be made out; and the treasurer's office shall be kept open for the receipt of taxes, from the time of the delivery of the duplicate to the treasurer (except when he may be required to be in the several townships to receive taxes) until the twenty-fifth day of January, and from the first day of April until the twentieth day of July.

Times he must keep his office open.

Treasurer's settlement with auditor.

SEC. 8. Each county treasurer shall, on or before the fifteenth day of February in each year, settle with the auditor of his county for all taxes that he may have collected at the time of making such settlement; and he shall

also, on or before the tenth day of August in each year, settle with the auditor of his county for all taxes that he may have collected, at the time of making said settlement, not included in the preceding February settlement; and at each of such settlements the auditor shall allow to the treasurer on the moneys collected on the duplicate and accounted for by him, his fees, agreeably to the rate or per centage allowed by law at a full settlement of the county treasurer. The full settlement of the county treasurer with the county commissioners, now required by law to be made on the first Monday in June, shall hereafter be made on the first Monday in September annually.

Settlement with commissioners.

Auditor's duty in settling with treasurer.

SEC. 9. In making the settlements required by the preceding section, the county auditor shall carefully examine the tax duplicate, and ascertain, from the entries of taxes and penalty, paid in whole or in part, and from such other sources of information as may be within his reach, the true amount collected by the treasurer on account of each of the several taxes charged on such duplicate, and the amount remaining in the hands of the treasurer belonging to each fund, and shall give to the treasurer separate certificates in duplicate of the separate sums found to have been collected by him. The county auditor shall also make out and deliver to the county treasurer a certificate in duplicate specifying the amount charged on the tax duplicate of the county for each of the several purposes for which taxes shall have been levied, and also a certificate or an abstract, in duplicate, of the taxes which have become due and payable and which remain unpaid. The county auditor shall also make out and carefully file and preserve in his office a list of the taxes and penalty so due and unpaid, which shall be denominated the delinquent list.

Auditor's certificates to treasurer.

Delinquent list.

Treasurer to deliver certificates to auditor of state and comptroller.

SEC. 10. Each county treasurer shall, within ten days next after he shall have made each semi-annual settlement with the county auditor, as required by this act, present to the auditor of state and the comptroller of the treasury, each, one of the several certificates and abstracts of the county auditor, required to be made out in the preceding section.

Settlement with county treasurer as to moneys belonging to state.

SEC. 11. The auditor of state shall, on the receipt of the certificates and abstracts aforesaid, proceed to settle with the county treasurer for the moneys in his hands belonging to the state, and to ascertain the exact sum or sums payable by him into the state treasury, and shall certify the same to the comptroller of the treasury, specifying in the certificate or certificates the amount belonging to each fund, and the total amount to be paid into the state treasury. And on receipt of such certificate or certificates, and finding the same to be correct, the comptroller of the treasury shall issue a certificate or certificates thereof, specifying as aforesaid; and the county treasurer shall forthwith deliver the same to the treasurer of state, and pay into the state treasury

the full amount of all sums so found to be in his hands, and belonging to the state; and the treasurer of state shall thereupon give to such county treasurer a receipt or receipts for such payment, as may be required by law.

County treasurer's payments to local treasurers.

SEC. 12. Each county treasurer shall, immediately after each semi-annual settlement with the county auditor of his county, on demand and presentation of the warrant of the county auditor therefor, pay over to the township treasurer, city treasurer, or other proper officer, all moneys in the county treasury belonging to any township, city, incorporated village or school district: provided, that if any township treasurer, or other proper officer aforesaid, shall request, or the trustees of any township, the council of any city or incorporated village, or the board of education of any school district, respectively, shall so direct, the moneys mentioned in this section shall remain in the county treasury, to be thence drawn by the proper local treasurer, on the warrant of the county auditor, in sums of not less than one hundred dollars.

Proviso.

Deficits in means to meet interest or principal of funded debt of state—how to be supplied.

SEC. 13. If, at any time, when the interest on, or any portion of the principal of the funded debt of the state is about to fall due, the money under the control of the commissioners of the sinking fund, applicable to the payment thereof, shall be insufficient for that purpose, said commissioners shall give written notice to the comptroller of the treasury of the amount of such deficiency; and the comptroller, on the requisition of the auditor of state, shall draw in favor of the treasurer of state on the several county treasurers, or on such of them and for such sum or sums each as he may deem most convenient, not exceeding the amount by them respectively collected for the sinking fund, at the time and times of so drawing; and such drafts, if paid, shall be evidence of the payment of the sums therein specified into the state treasury, and shall, on delivery thereof to the comptroller, be credited and allowed to the county treasurers respectively in making the semi-annual settlements. Upon drawing such drafts, the comptroller shall charge the same to the treasurer of state on account of moneys belonging to the sinking fund, and shall notify the auditor thereof in writing.

Deficits in general revenue—how to be met.

SEC. 14. Whenever the auditor of state shall ascertain that the moneys in the state treasury, belonging to the general revenue, will probably be insufficient in amount to pay the appropriations from that fund, he shall notify the comptroller of the amount deemed necessary to make up the deficiency until the next semi-annual settlements of county treasurers; and thereupon the comptroller shall draw therefor in favor of the treasurer of state, on the several county treasurers, or on such of them, and for such sum or sums each as he shall deem most convenient, not exceeding the amount by them respectively collected for general revenue

at the time and times of so drawing, and shall charge the same to the treasurer of state on account of general revenue; and in other respects the comptroller, treasurer and auditor shall be governed by the provisions of the next preceding section.

When county treasurer's term begins and ends.

SEC. 15. County treasurers shall take possession of their offices on the first Monday of September next after their election, and shall hold the same for two years thereafter, and until their successors are elected and qualified; and if any person elected to said office shall fail to give bond and take the oath of office, as prescribed by law, on or before the first Monday of September next after his election, the office shall be held to be vacant, and shall be filled as provided by law.

Bond and oath—vacancy.

55 Laws 62—act repealed.

SEC. 16. The act entitled "act to provide for the semi-annual collection of taxes," passed April 12, 1858, is hereby repealed, but notwithstanding this repeal, the twelfth section of said act shall continue in force until the first Monday in September next, and provided, that this repeal shall not affect the existing rights or liabilities of any person or persons, civil or criminal, but the same may be prosecuted as if the said act were not repealed.

Proviso.

SEC. 17. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To provide for the renewal, and to regulate the final payment of the funded debt of the state.

Renewal of certificates of funded debt.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of the sinking fund for the time being are hereby authorized, fully empowered and required, at periods previous to, and near the time that any portion of the funded debt of this state shall become payable according to the terms expressed upon the face of the certificates thereof, to make out in due form and manner, and with all the sanctions required by law for the making of certificates of the funded debt of this state, and issue such an amount and number of such certificates of the funded debt of this state as shall be sufficient in amount to redeem so much of said debt then about coming payable, as shall not have been paid or fully provided for by the application of the sinking fund, as established and fixed by the consti-

tution. And such an amount of all such certificates of the funded debt so to be issued to redeem any part of the said debt coming payable, shall be made redeemable and payable in each succeeding and consecutive year after being issued, as the sinking fund established and fixed by the constitution, applicable in such year, and described in and by the schedule herein, will pay; which schedule is hereby made a part of this act, as explanatory thereof, so that a certain amount of such certificates of such debt so issued shall be made payable and redeemable absolutely every year in each consecutive year, until the whole of the same shall be paid. And on making and issuing said certificates, the time and place of redemption and payment of the principal, and the payment of the interest, by the state, and the rate of interest, shall be clearly expressed upon the face of each certificate. And each certificate shall also have conspicuously and plainly inscribed upon its face the words, "renewal of the funded debt of the state of Ohio." And the said commissioners of the sinking fund shall keep separate accounts and registries of the issue, transfers, payment of the interest, and the final redemption and payment of the principal of the same.

When redeemable and payable.

Accounts and registries.

Schedule.

SEC. 2. The following schedule of the sinking fund as established and fixed by the constitution of the state of Ohio, and applicable yearly, commencing with the year eighteen hundred and fifty-two, (1852,) to the payment of the debt of the state, and referred to, and made a part of this act, as explanatory thereof, by the preceding section hereof, to wit:

AMOUNT OF THE SINKING FUND.

For the year 1852	$100,000 00
For the year 1853	106,000 00
For the year 1854	112,360 00
For the year 1855	119,102 00
For the year 1856	126,248 00
For the year 1857	133,823 00
For the year 1858	141,852 00
For the year 1859	150,363 00
For the year 1860	159,385 00
For the year 1861	168,948 00
For the year 1862	179,085 00
For the year 1863	189,830 00
For the year 1864	201,220 00
For the year 1865	213,293 00
For the year 1866	226,091 00
For the year 1867	239,656 00
For the year 1868	254,035 00
For the year 1869	269,277 00
For the year 1870	285,434 00
For the year 1871	302,560 00
For the year 1872	320,714 00
For the year 1873	339,957 00
For the year 1874	360,354 00

For the year 1875	381,975 00
For the year 1876	404,894 00
For the year 1877	429,188 00
For the year 1878	454,939 00
For the year 1879	482,235 00
For the year 1880	511,169 00
For the year 1881	541,839 00
For the year 1882	574,349 00
For the year 1883	608,810 00
For the year 1884	645,339 00
For the year 1885	684,059 00
For the year 1886	725,103 00
For the year 1887	768,609 00
For the year 1888	814,726 00
For the year 1889	863,610 00
For the year 1890	915,427 00
For the year 1891	230,769 20
To pay balance of funded foreign and domestic debt of the state	$14,736,627 20
Deduct sinking fund for years 1852 to 1858, inclusive, already applied	839,385 00
	$13,897,242 20

shall be, and hereby is made a guide and a direction obligatory upon the commissioners of the sinking fund, for the time being, in the discharge of their official duties.

Where, only, principal and interest payable.

SEC. 3. All or any portion of such certificates of the funded debt of the state so to be renewed, as herein described, may be made and issued with the principal and interest payable at the treasury of the state, at the seat of government, or at the office of the agency of the state in the city of New York, and at no other place whatever. And all certificates of the funded debt so issued as a domestic debt, the principal and the interest of which is made payable at the treasury of the state, shall be issued payable to the party or parties taking the same, his, her, or their order, as the case may be.

To whom certificates to be made payable.

When interest to be made payable.

SEC. 4. The interest on all the certificates of the funded debt of the state, so to be issued as a domestic debt to renew any portion of the funded debt of the state coming payable as aforesaid, shall be made payable semi-annually, (every six months,) on the first day of February and on the first day of August in each year, from the time of their being issued. And the interest on all the certificates of the funded debt of the state so to be issued as a foreign debt, to renew any portion of the funded debt of the state coming payable as aforesaid, shall be made payable semi-annually, (every six months,) on the first day of January and on the first day of July in each year, from the time of their being issued. And no certificate of said funded debt so issued as a foreign debt, the principal and interest of

Amount of each certificate.

which shall be made payable in the city of New York, shall be issued of a less denomination or amount than one thousand dollars, nor for any fractional part of one thousand dollars above that sum; but certificates of the funded debt so renewed, the principal and interest of which is made payable at the treasury of the state, at the seat of government of the state, as a domestic debt, may be issued in amounts of one hundred dollars, or of five hundred dollars, or one thousand dollars, as may be preferred by the party or parties taking the same, and also for any fractional part of the sinking fund of any year. And there may be attached to all such certificate so issued as a domestic debt, interest coupons, or debentures, for every six months interest coming due and payable, from the time of the issuing of such certificate to the period of the final redemption and payment of the same; which interest coupons, or debentures, may be taken by the county treasurers in lieu of money in payment of taxes due the state, that is to say, the interest coupons, or debentures coming due on the first day of February in any year, may be taken for taxes due the preceding 20th of December, and interest coupons or debentures coming due on the first day of August in any year, may be taken for taxes due the preceding 20th of June, and be received from them by the treasurer of state in lieu of money, and paid over on the warrant of the auditor of state, drawn on the requisition of the commissioners of the sinking fund, according to the requirements of law for the payment of the interest on the funded debt of the state; but no such coupon or debenture shall be taken by any county treasurer, or be received of any county treasurer by the treasurer of state, or by the commissioners of the sinking fund, for a greater sum or amount than the simple interest expressed therein; and all such coupons or debentures so paid by the state shall be cancelled, classified, arranged, and carefully recorded, and preserved in a book or books, to be kept for that purpose by the said commissioners of the sinking fund, in their office, at the seat of government, in lieu of the duplicate pay rolls, as required in regard to the payment of the semi-annual interest on the foreign funded debt of the state. And it shall also be a part of the official duties of the said commissioners to make such requisition as aforesaid; and itshall be a part of the official duties of the auditor of state to draw such warrant on the treasurer of state for the paying over, as aforesaid, of all such coupons or debentures as often as once in each week (and oftener if deemed essential to the interests of the state by either the auditor of state or the said commissioners,) in which any of the said coupons or debentures shall have been received into the state treasury as aforesaid. And the treasurer of state shall also make out, and register in his office, complete schedules of all such

Coupons, etc., may be taken for taxes, etc.

Cancellation, classification and record of coupons.

Warant on state treasurer.

Schedule of coupons in his office

coupons or debentures so received by him from county treasurers, and paid over to the commissioners of the sinking fund on the warrant of the auditor of state, drawn as aforesaid; and also shall furnish copies of all such schedules to the comptroller of the treasury at the close of business on each day, in which any such coupons or debentures shall be so paid over by him.

Advertisement for proposals &c.

SEC. 5. It is hereby made the special duty of the commissioners of the sinking fund to advertise for proposals or bids for the taking of all or any portion of the funded debt of the state so to be renewed, as herein provided, as a domestic debt as herein described, for the term of at least six months next preceding the time set for the closing of such bids or proposals for the taking of such domestic debt, in at least one newspaper of general circulation, published in each county in this state. And whatever portion of the said debt so to be renewed at such time as shall remain without being taken as such domestic debt on the terms herein specified, after the expiration of the said term of six months in which the same may be taken as such domestic debt as aforesaid, shall be offered by the said board of commissioners of the sinking fund for sale in the city of New York as a foreign debt; and for that purpose, the said commissioners shall advertise for proposals or bids for the taking of the same in at least two newspapers of general circulation, published in the city of New York, for a term of at least sixty days next preceding the day set for the closing of the bids or proposals for the taking of the same. And all certificates of such renewed funded debt that may be issued as such domestic debt, as herein described, shall be issued by the said commissioners of the sinking fund to the party or parties who shall take the same as such domestic debt as aforesaid, at the lowest rate of interest not exceeding six per centum per annum and at par, that being the full amount as expressed upon the face of the certificates thereof. And for all such part of any portion of the funded debt of the state so to be renewed, that shall not be taken as a domestic debt as aforesaid, within the term of six months as aforesaid, the said commissioners of the sinking fund shall issue the certificates thereof to such party or parties who shall agree to take the same with the principal and the interest thereon, payable in the city of New York, as a foreign debt, as herein specified, at the highest rate of premium for such as shall bear interest at the rate of six per centum per annum, or at the lowest rate of interest, under six per centum per annum, at par, as the said commissioners may judge to be most for the interest of the state: provided, that no bids or offers to take either as a domestic or a foreign debt containing fractional parts of one per centum other than one-quarter, one half, or three-quarters, shall be received, and in no case shall there be any certificate of the

To whom certificates to be issued, rate of interest, &c.

Proviso as to what bids shall not be received.

Prohibitions.

funded debt of this state issued so to redeem any portion of the funded debt of this state coming payable, that shall bear a higher rate of interest than six per cent. per annum; nor shall any such certificate bearing interest at the rate of six per cent. per annum be issued, sold, exchanged, or disposed of, in any way whatever, by the said commissioners at a price less than par. Nor shall there be any commissions, expenses, or charges allowed on the sale and conversion thereof into money that shall reduce the net amount brought into the state treasury below the amount expressed upon the face of the certificate so issued.

In cases two bids are equal.

SEC. 6. That in all cases where there shall be more than one bid, or proposal, to take any portion of the funded debt of the state so to be renewed, either as a domestic debt, or as a foreign debt, as herein described, at a rate equal to each other, and most to the interest of the state, the commissioners of the sinking fund shall apportion the amount equally and fairly between the parties making such bids or proposals: provided, that bids for the smallest amounts of the domestic debt shall be preferred to bids for larger amounts at the same rate.

Surrender of foreign for domestic debt certificates.

SEC. 7. Any holder of a certificate of the foreign debt of the state may at any time surrender the same to the commissioners of the sinking fund and receive in lieu thereof a certificate of equal amount of the domestic debt as herein specified, and said commissioners shall make the necessary registries and entries on their books, and cancellations and transfers thereof.

Schedule of the funded debt of the state.

SEC. 8. The following schedule or statement of the funded debt of the state, exhibiting the amounts and the times when the various portions thereof come payable by the state, to wit:

Of the foreign debt, the principal and interest of which is payable in the city of New York—

1st. Six millions, four hundred thirteen thousand three hundred twenty-five dollars twenty-seven cents, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the state, after the 31st day of December, 1860....	$6,413,325 27
2d. One million and twenty-five thousand dollars, bearing interest at the rate of five per cent. per annum, coming payable, at the pleasure of the state, after the 31st day of December, 1865.....	$1,025,000 00
3d. Two millions, one hundred eighty-three thousand, five hundred thirty-one dollars and ninety-three cents, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the state, after the 31st day of December, 1870.....	$2,183,531 93

4th. One million, six hundred thousand dollars, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the state, after the 31st day December, 1875.....	$1,600,000 00
5th. Two millions, four hundred thousand dollars, bearing interest at the rate of six per cent. per annum, coming payable, at the pleasure of the state, after the 31st day of December, 1886.....	2,400,000 00
Amount of the foreign debt.....	$13,621,857 20
6th. Two hundred seventy-five thousand, three hundred and eighty-five dollars, being the amount of the domestic debt, the principal and interest of which is payable at the seat of government.....	$275,385 00
Total amount of the foreign and domestic funded debt of the state on the 1st day of January, 1859, thirteen millions, eight hundred ninety-seven thousand, two hundred forty-two dollars and twenty cents.....	$13,897,242 20

is hereby made a guide and a direction obligatory upon the commissioners of the sinking fund, for the time being, in the discharge of their official duties, and is also hereby made a part of this act, as explanatory thereof. And the commissioners of the sinking fund, in carrying into effect the provisions and requirements of this act, are hereby required to issue the certificates of renewal of the said funded debt, and annually apply the sinking fund to the payment thereof: First, to the renewal and payment *in full* of the *first debt* coming *payable*, which will be on the first day of January, eighteen hundred and sixty-one, (1861,) and then to the portion of the said debt next coming payable, and so on in order and in succession, so that the portion of the said debt first coming payable shall be first fully redeemed and paid; and the certificate first issued shall be for the earliest period of redemption and payment, and so on in such succession and order that the certificates last issued shall be for the redemption and payment of the portion of the funded debt last coming payable, until the entire amount, and every portion thereof, shall be fully redeemed and paid. It is, however, hereby expressly declared that the temporary debt of the state, created to reimburse the treasury by the act of April 12, 1858, amounting to seven hundred thousand dollars, the payment of which being provided for by a special tax, is not included in, but is expressly excepted from the operation of this act.

Duty of fund commissioners, as to issuing certificates, and application of sinking fund.

SEC. 9. The commissioners of the sinking fund are hereby required to report to the governor at the time of making their semi-annual reports, and at such other times as the

Their reports.

governor may require, and also to the general assembly, or to either branch thereof, if so required by joint resolution of the general assembly, or by resolution of either branch thereof, all and singular their acts and proceedings, done under, and by authority of this act, or by or under authority of any of its provisions and requirements. And if the general assembly should not be in session at the time that any such report is made to the governor, or if such report or reports should be made more than two months previous to the time when the general assembly is to meet, at either a regular session, or at an adjourned or called session thereof, then, and in that case, it shall be a part of the official duties of the governor to cause any such report or reports to be published in at least two newspapers of general circulation, published at the seat of government, and in at least two such papers published in each of the cities of Cincinnati and Cleveland.

SEC. 10. This act shall take effect and be in force on and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

In relation to public records.

Curwen's R. S. 158, 343, 1543. Curwen's Laws, 954, 954, 903.

Indexing and transcribing.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be the duty of the county commissioners of any county to cause any public records of said county, to be indexed or transcribed, whenever the public interest shall require the same to be done, or when the same may be necessary to facilitate the business appertaining to the office to which such records belong; and to pay in compensation to the persons employed for the same, any price not exceeding five cents a case for indexing, and ten cents for every hundred words for transcribing. And all contracts heretofore made by the county commissioners of any county for such indexing or transcribing, are hereby confirmed and declared valid; such compensation to be paid out of the county treasury, upon the order of the county commissioners and the order of the county auditor.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To protect literary societies.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person or persons shall hereafter wilfully disturb, molest or interrupt any literary society, or any school or society formed for the intellectual improvement of its members, such person or persons so offending shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than five nor more than twenty dollars, with costs of prosecution, and shall stand committed until such fine shall have been paid: provided such commitment shall not exceed five days; and provided, further, that the judgment for costs shall not be abated until such costs shall have been fully paid.

Wilfully disturbing &c., a misdemeanor.

Penalty.

SEC. 2. That it shall be the duty of any judge of probate, justice of the peace, or mayor of any city, town, or incorporated village in this state, upon information by affidavit, to issue his warrant, causing the body of the accused forthwith to be brought before him, and if, upon investigation, shall be found guilty, to adjudge against said guilty party or parties, the penalty provided in the first section of this act.

Prosecution.

SEC. 3. All prosecutions under this act shall be in the name of the state of Ohio, and all such fines collected shall be paid into the township treasury of the proper township, for the benefit of common schools therein.

Same, and disposition of fines.

SEC. 4. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To amend the forty-fourth section of an act entitled "an act to provide for the organization of cities and incorporated villages," passed May 3, 1852.

Swan's R. S. 966.
Curwen's R. S. 1848.
Curwen's Laws 1084.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section forty-fourth of the above named act be so amended as to read as follows: Sec. 44. The corporate authority of incorporated villages, organized or to be organized under the provisions of this act, for the special purposes of being a road district, shall be vested in three trustees, who shall be qualified electors residing within the

Trustees of road districts—their organization.

limits of such special road districts, and who shall hold their office for three years, except as herein provided, and until their successors are elected and qualified. At the first meeting of the trustees elected under the provisions of this act, they shall determine by lot the term of service of each trustee so elected, so that one of the trustees shall serve for the term of one year, and one for the term of two years, and one for the term of three years; and at every succeeding annual election of any special road district, they shall elect one trustee who shall serve for the term of three years; the said trustees shall appoint either from their own body or from the qualified voters of the corporation, a clerk, and may appoint a supervisor or such other officers or agents as may be necessary; and by proper by-laws or ordinances prescribe the duties and compensation of the officers so appointed, and may remove any such officers, and may appoint others at their discretion. The said trustees shall have power to fill any vacancy which may happen in their own body from the qualified voters of the corporation, and the person so appointed shall continue in office until the next regular election, and until his successor is elected and qualified; and any two of said trustees may act, but notice of any meeting for the transaction of business must be given to all.

Sec repealed

SEC. 2. That the forty-fourth section of an act entitled an act to provide for the organization of cities and incorporated villages, passed May 3, 1852, be and the same is hereby repealed.

SEC. 3. This act to be in force from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To provide for the payment of indebtedness of townships, incurred for the support of the poor.

Additional annual levy.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of townships be and are hereby authorized to levy annually, any sum not exceeding three mills on the dollar valuation, in addition to the levies now authorized by law, for the payment of indebtedness heretofore contracted by the township for the support of the poor.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To authorize associations of persons for carrying freight on any of the navigable waters of the state of Ohio, and the lakes and navigable rivers bordering thereon.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any number of natural persons, not less than five, being citizens of the state of Ohio, may become a body corporate, with all the rights, privileges and powers conferred, and subject to all the restrictions of this act. Who may become a body corporate.

SEC. 2. That any number of persons as aforesaid, associating themselves together for the purpose of transporting freight on any of the navigable rivers in the state of Ohio, and any of the lakes and navigable rivers bordering thereon, shall, under their hands and seals, make a certificate, which shall specify as follows: First, the name assumed by such company or association, and by which it shall be known; second, the name of the county or place where the principal office of such company is situate; third, the amount of capital stock, not to be less than two thousand dollars, and the amount of each share. Such certificate shall be acknowledged before a justice of the peace or other proper officer, and shall be forwarded to the secretary of state, who shall record and carefully preserve the same in his office; and a copy thereof, duly certified by the secretary of state, under the great seal of the state of Ohio, shall be evidence of such corporation or company. Articles of association. Its record. Copy evidence.

SEC. 3. That when the foregoing provisions have been complied with, the persons named as corporators in said certificate, are hereby authorized to carry into effect the objects named in said certificate, in accordance with the provisions of this act; and they and their associates, successors and assigns, by the name and style provided in said certificate, shall thereafter be deemed a body corporate, with succession, with power to sue and be sued, plead and be impleaded, defend and be defended, contract and be contracted with; to make and use a common seal, and the same to alter or break at pleasure; and to do all needful acts to carry into effect the objects for which it was created. General powers.

SEC. 4. Any company or association, organized for the Same.

purposes aforesaid, shall have power to build, purchase, and hold such number of steamboats or other vessels, and such other personal property, as may be deemed necessary for commencing and conducting the business of the association; and shall have power to sell the same, or any part thereof, in such manner, and for such purpose, as may be prescribed by the rules and regulations of the company, and not inconsistent with the laws of this state. And said company shall have power to carry any articles of freight or produce upon any of the navigable streams in the state of Ohio, and on any of the lakes and navigable rivers bordering thereon; and shall be governed by the same laws, not inconsistent with this act, which govern individuals in such employments.

Annual meeting of stockholders.

SEC. 5. The annual meeting of the stockholders of such company, after the first election of directors, shall be held at such time as the directors may prescribe, at which meeting the directors of the company shall be elected, and such other lawful business done as the stockholders may deem necessary and proper; and should they fail to elect directors at the annual meeting, they shall hold a special meeting at some subsequent time for that purpose, by giving thirty days notice thereof in some newspaper in general circulation in the county where the principal office of such company is situated. The directors shall hold their office until their successors are chosen and qualified, and shall have power to fill all vacancies in their body; but no person shall be a director after ceasing to be a stockholder. Immediately after the election of directors, they shall elect one of their number president of the corporation, and may appoint such other officers and agents as they may deem proper to transact their business, and may prescribe the amount of compensation to be allowed for their services; and such officers and agents, when required by the by-laws, rules and regulations, shall give bond to the satisfaction of the directors for the faithful discharge of the trust committed to them. Said directors shall have power and are hereby authorized to make such rules, regulations and by-laws as may be necessary for their regulation, not inconsistent with the constitution and laws of this state; they shall have the general management of the affairs of the company, and may dispose of the residue of all capital stock at any time remaining unsubscribed, in such manner as the stockholders for the time being may prescribe, and shall employ the capital and means of the company as they shall deem best for carrying on the business for which it was organized, subject always to the control of the stockholders; they shall cause a record to be kept of all stock subscribed or transferred, and of all business transactions, and their books and records shall at all reasonable times be open to the inspection of any and every stockholder; they shall also, when required, present to the stockholders reports in writing of the situation and

Special meeting, notice thereof.

Term of directors—their powers and duties.

amount of business of the company, and declare and make such dividends of the profits of the company, not reducing the capital stock while they have outstanding liabilities, as they shall deem expedient.

Subscription books, commencing business, &c.

SEC. 6. The persons named in said certificate of incorporation, or a majority of them, shall be commissioners to open books for subscription to the capital stock of said company, at such times and places as they shall deem proper, and said company are authorized to commence operations upon the subscription of eighty per cent. of said stock. An installment of thirty per cent. on each share of stock shall be made in cash at the time of making the subscription, and the residue thereof shall be paid in such installments, at such times and places, and to such persons as may be required by the directors of such company. If any person or persons subscribing to the capital stock of such company shall fail to make payment of such subscription, or any part thereof, at the time or times prescribed by the directors, the said company shall have power to proceed by suit to collect the same in any court of competent jurisdiction.

Suit against defaulting subscriber.

Liability of stockholder.

SEC. 7 Each stockholder shall be individually liable for all the debts of the company in an amount equal to the amount of his subscription thereon in addition thereto.

SEC. 8. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

Authorizing the examination of banking corporations in certain cases.

When supreme court may appoint examiner

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any banking corporation in the state of Ohio, organized under the laws thereof, which shall have suspended payment upon its notes of circulation or other liabilities, or shall have made an assignment in trust of its effects, or any part thereof, for the purpose of preferring any of its creditors, whereby the provisions of the charter of any such corporation, or the law under which the same is organized, the supreme court of Ohio has power to appoint a master commissioner, examiner or other person, for the purpose of investigating the condition and management of said corporation. The master commissioner, examiner, or

other person, who may be appointed by the supreme court
His duties. of Ohio to make such examinations, shall examine fully in regard to all such matters touching the condition and management of such corporation as may be directed by the
His powers. court, and for that purpose power is given him to issue process for the attendance of witnesses, the production of papers, books and accounts necessary for such examination, also, to summons the officers, agents, assignees, or employees of said corporation, or other persons, to appear before him and testify in relation to the condition and management of said corporation, and also to take all necessary testimony to show the condition and management of the affairs of said corporation.

Same. SEC. 2. That said master commissioner, examiner or other person, who may be appointed by said court, shall have power to compel the service of his process, the attendance of witnesses and other persons, the production of books, papers and accounts, to compel answers to questions which may be propounded to all persons by him sworn, and to enforce all orders by him made touching such examination, by proceeding for contempt, as fully, and to the same extent, as any court of the state of Ohio can.

His oath. SEC. 3. The master commissioner, examiner, or other person, before entering upon the duties of such appointment shall take an oath, that he will faithfully, honestly and impartially discharge the same, and shall report his proceedings to the supreme court as it may require.

His powers. SEC. 4. That if upon the examination of the officers, agents, employees or assignees of said corporation, or from the evidence of other witnesses sworn, it shall appear that there are books, papers or accounts material and necessary to the examination, provided for in this act, in the possession, or under the control of, or within the knowledge of such officers, agents, employees or assignees, within the state of Ohio, or elsewhere, which now belong to, or once did belong to said corporation, the originals of which cannot be produced at such examination, such master commissioner, examiner or other person shall have power to the same extent, and in the same manner as is prescribed by section two of this act, to compel the officers, agents, employees or assignees of said corporation to produce upon such examination, attested copies of said books, papers or accounts.

SEC. 5. This act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To amend section seven of an act to regulate the election of State and county officers, passed May 3, 1852, (Swan's Statutes, 341.)

Swan's R.S. 341.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seven of an act passed May 3, 1852, entitled an act to regulate the election of state and county officers, be so amended as to read as follows: Section 7. That if either of the trustees, common councilmen, or clerk of any township, shall fail to attend at the time and place of holding elections, or if either of them should be a candidate for state or county office, then it shall be the duty of the electors present to chose, viva voce, suitable persons, (as the case may require,) having the qualifications of electors, to act as judges or clerk (as the case may be,) of the election; and, previous to any votes being received, such judge and clerk, not being a trustee or clerk of the township, shall take an oath or affirmation, which may be administered by a justice of the peace, trustee, or clerk of the township, in the following form: "You, A. B., do solemnly swear (or affirm, as the case may be,) that you will perform the duties of judge or clerk of this election, (as the case may be,) according to law and the best of your abilities; and that you will studiously endeavor to prevent fraud, deceit, or abuse, in conducting the same."

Curwen's R. S. 1921. Curwen's Laws, 1153.

Substitutes for judges and clerks.

Their oaths.

SEC. 2. That said original section seven is hereby repealed; and this act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To provide for the election of an additional judge of the court of common pleas for the first subdivision of the second judicial district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That for the second judicial district there shall be one additional judge of the court of common pleas, who shall be a resident of the first sub-division of said district, being the counties of Butler, Preble and Darke, and be elected by the qualified voters of said counties, at the next annual election for state and county officers, in the same manner and for the same time as prescribed by law for the election of other judges of the court of common pleas, and

Additional judge—when to be elected.

His salary, powers and duties.

Vacancy.

shall be entitled to receive the same salary, possess the same powers, and discharge the same duties, as are conferred or enjoined by the constitution and laws of the state upon other judges of said courts. And any vacancy that may occur in the office of such additional judge, whether by expiration of his term of service, or otherwise, shall be filled as in other cases.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To prescribe the duties of judges of elections in certain cases, and preserve the purity of elections.

Vote of persons of African blood to be rejected.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the judge or judges of any election held under the authority of any of the laws of this state, shall reject the vote of any person offering to vote at such election, and claiming to be a white male citizen of the United States, whenever it shall appear to such judge or judges that the person so offering to vote has a distinct and visible admixture of African blood.

Penalty for not doing so.

SEC. 2. Any judge or judges of any such election, who shall receive the vote of any person when such person has a distinct and visible admixture of African blood, shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, nor less than one hundred dollars, and imprisoned in the county jail of the proper county not more than six months, nor less than one month.

Procurers, aiders and advisors how punished.

SEC. 3. Any person who shall procure, aid, assist, counsel or advise another to give his vote at any such election when such other person has a distinct and visible admixture of African blood, shall, on conviction thereof be fined in any sum not exceeding five hundred dollars, nor less than fifty dollars, and be imprisoned in the county jail of the proper county not more than six months, nor less than one month.

Prosecutions, &c.

SEC. 4. All prosecutions under this act shall be by indictment in the court of common pleas of the proper county, and it shall be the duty of the judges of the court of common pleas to give this act specially in charge to the grand jury at each term of the court.

SEC. 5. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

For the relief of the holders of orders issued by free turnpike road companies.

Curwen's R. S., 767; Curwen's Laws, 625.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever the right of any free turnpike road company to levy special taxes to pay the orders issued by it, as provided in its act of incorporation or by acts amendatory thereof or supplementary thereto, shall cease, or in case said right to levy such tax has already ceased, leaving outstanding orders unpaid, and their payment unprovided for, it shall be the duty of the commissioners of such road company, immediately to make out and deliver to the auditor of the county, in which such road or any part thereof shall be situated, a complete and perfect list of all outstanding orders of said road company, for the payment of which they have no funds or means of payment, with a description of each of said orders, as to date, amount, rate of interest, (if on interest,) and when payable. Said list shall be verified by said commissioners, and the county auditor shall lay the same before the county commissioners at their next regular session thereafter.

Proceedings.

List of outstanding orders, &c.

SEC. 2. At any regular session of the county commissioners at which a certified list of free turnpike road orders shall have been laid before them, as provided in the first section of this act, it shall be the duty of said county commissioners immediately to proceed to ascertain the aggregate amount of said orders including interest, in case said orders draw interest, and adding thereto an amount sufficient to pay the expense of assessment and collection, to cause the same to be assessed upon the same lands and town lots adjacent to and lying near said free turnpike road, as were subject to taxation for the construction of said road, or to pay for the same, at the time when by the expiration of its charter, or otherwise, the right to tax such lands and town lots ceased. Said amount shall be assessed upon such lands and town lots according to their true value in money, as shown by their valuation contained in the county duplicate; and whenever by the laws in force immediately preceding the time when the right to

Duty of county commissioners.

Assessment.

levy taxes for the benefit of any such road ceased, different rates of taxation were authorized upon the lands adjacent to or lying near any such road, according to their proximity to such road, the amount authorized to be levied by this act shall be so assessed upon those lands as to preserve the same relative proportions between the taxes on the several tracts as formerly ; provided, that said county commissioners may in their discretion divide the aggregate of such indebtedness into installments not exceeding five in number, and order that one of those installments be assessed and collected annually ; the amount so assessed shall be collected in the same manner as state and county taxes.

Proviso as to installments and their assessment, &c.

Payment of orders, &c.

SEC. 3 Immediately after the settlement of the county treasurer with the county auditor in August of any year next after that in which any assessment has been made, as herein provided, to pay the indebtedness of any free turnpike road company, the county auditor shall proceed to ascertain the net amount of money collected on account of the indebtedness of such free turnpike road company ; and if the amount so collected is sufficient to pay the whole of such indebtedness, he shall proceed to pay all orders of said road company on presentation by his warrants drawn on the county treasurer payable out of the proper fund, and shall cancel said orders and keep them on file in his office ; but if the net amount so collected shall be insufficient to pay said orders in full, or said amount of indebtedness shall have been ordered to be collected in annual installments, the county auditor shall divide the net amount collected pro rata among the holders of said orders, taking up and cancelling the original orders, and issuing new orders for the balances unpaid.

Exclusive application of special tax.

SEC. 4. Whenever any free turnpike road shall have been finished according to law, with an outstanding debt unprovided for, and the right to levy special taxes for the benefit of such road shall not have ceased, such special taxes, when collected, shall be applied exclusively to the payment of such debt, till the same shall be paid in full.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.

MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To provide for the enlargement of the Ohio penitentiary

Enlargement authorized and directed.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the warden and directors of the Ohio penitentiary are hereby authorized and directed to provide immediately for the enlargement of that institution, by extending the east wing thereof fifty feet in an easterly direction, and extending the east cell house in a corresponding manner, with the addition of a sufficient number of cells to meet existing wants for the accommodation and confinement of male convicts.

Male department.

SEC. 2. They are authorized and directed to further extend said east wing, in the same direction, forty-three feet, for the accommodation of female convicts. Said further extension shall be entirely separate and distinct from the male department, having no communication therewith, and shall be used exclusively for the accommodation and safe keeping of female convicts; it shall contain a cell house with a sufficient number of cells, together with the wash rooms, bath rooms, and other conveniencies necessary to the employment and comfort of all the female convicts of the prison, and shall be surrounded by a safe and substantial stone wall, inclosing the requisite grounds for the health and comfort of its inmates, and separating them entirely from the grounds of the male department.

Female department.

How built.

SEC. 3. The entire structure shall be well and substantially built of stone, with special reference to economy and the safe keeping and comfort of the convicts, and the front of the male department shall alone be built of faced stone, corresponding, as near as may be, in appearance to the present east wing. The addition now occupied by the female convicts shall be removed. They are further authorized and directed to construct a secure and substantial stone wall of the requisite hight and thickness, around said penitentiary grounds, as follows, to wit: Beginning at the southeast corner of the addition herein proposed to the male department, running thence at right angles with the building to the south line of the grounds, thence east along said south line to the east line, thence north along said east line to a point forty feet south of the N. E. corner of penitentiary lot, thence west to a point forty feet south of the north line of lot, and in a line with the old west wall, thence south with last named line to the north end of the present west wall. And they may remove so much of the old wall as may be necessary to construct the new, or shall have been rendered useless by its construction.

Wall.

Convict labor.

SEC. 4. They shall have power to execute, by convict labor, so much of any, or all, work contemplated by this act, as in their opinion will be conducive to the best interests of the state, and shall complete the remaining portion, or the whole, as the case may be, by dividing the same into

suitable parcels, and advertising for sealed proposals for contracts, in the Daily Ohio Statesman and the Daily Ohio State Journal, for not less than three consecutive weeks before the time when such contracts are proposed to be let; and such advertisement shall contain proposals for the completion of each separate parcel, and for the entire work. All bids offered on the day when the letting is to take place, shall be rejected; and all bids received shall be opened on that day, in the presence of said warden and directors, and not otherwise.

Advertising for proposals.

Opening bids.

Contracts, letting, specifications, completion, bond, approval thereof.

SEC. 5. All contracts shall be let by said warden and directors to the lowest responsible bidder, and shall specifically set forth the work contracted to be done, style, time, when to be completed, materials to be used, &c.; and in no event shall the time for the completion of the entire improvements extend beyond the first day of November, 1859. Every contracting party shall give bond, with good and sufficient security, for the performance of his contract; and no contract authorized by this act shall be held to be complete until, together with the bonds and security, it shall have been first approved by the attorney general and auditor of state.

Convict labor.

SEC. 6. Said warden and directors are hereby empowered to hire out to the contractors, or any of them, convict labor, upon such terms, and to such extent, as will best subserve the interests of the state; and in cases where two or more bidders shall be equal and none lower, the directors and warden are empowered to decide which shall take the contract.

Equal bids—decision,

Architect.

SEC. 7. The architect of the state house shall be the superintendent and inspector of all work performed on, or materials procured for, said extension and improvements, and shall furnish all necessary plans and specifications; but no such duties shall in any manner interfere with the prosecution of the work upon the state house, or entitle him to any remuneration in addition to his salary.

Acting and advisory directors.

SEC. 8. The said warden shall be the acting director of such proposed improvements, and the said directors shall be advisory. And whenever the expression "warden and directors," occurs or is referred to, in this act, it shall be held to refer to them as a collective body, a majority of whom shall be competent to the discharge of business.

Appropriation.

SEC. 9. There is hereby appropriated out of any money in the treasury not otherwise appropriated, as follows: To pay for work performed on, and materials furnished for, the construction of the additional building for male and female convicts, and the necessary wall separating the two departments, the sum of twenty-two thousand dollars; and to pay for work done, and materials furnished for wall enclosing the main grounds, the sum of fifteen thousand dollars. Such moneys shall be paid out in the same manner as other moneys are, upon the certificate of said warden, which cer-

How paid out.

tificate shall only be given to pay for work actually done, and materials actually used, in making improvements authorized by this act.

SEC. 10. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Making appropriations, in part, for the first quarter of the year 1860.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums be and are hereby appropriated out of any money in the treasury applicable thereto, from the general revenue, for the expenses, in part, of the first quarter of the year commencing on the fifteenth day of November, in the year eighteen hundred and fifty-nine (1859): Appropriations for—

For the payment of the salaries of the governor, auditor, treasurer, comptroller of the treasury, secretary of state, attorney general, secretary to the governor, state commissioner of common schools, and the state librarian, three thousand four hundred and twenty-five dollars ($3,425); State officers.

For the payment of the salaries of judges of the supreme court, court of common pleas, and superior courts, eighteen thousand nine hundred and fifty dollars ($18,950); Judges.

For the payment of clerks in the office of the auditor of state, one thousand four hundred dollars ($1,400); Auditor's clerks

For the payment of clerks in the office of the treasurer of state, seven hundred dollars ($700); Treasurer's.

For the payment of the clerks in the office of the comptroller of the treasury, eight hundred dollars ($800); and for the first quarter of 1859, ($600); Comptroller's.

For the payment of clerks in the office of the secretary of state, five hundred dollars ($500); Secretary's.

For the payment of clerk in the office of attorney general, two hundred dollars ($200); Attorney general's.

For the payment of mileage of county treasurers traveling to and returning from the seat of government making their semi-annual settlement in the month of February, 1860, one thousand eight hundred dollars ($1,800). County treasurers' mileage.

BENEVOLENT INSTITUTIONS.

For provisions and household and current expenses of the central Ohio lunatic asylum, ten thousand dollars ($10,000); C. O. L. asylum.

S. O. L. asylum. For provisions, household and current expenses of the southern Ohio lunatic asylum, six thousand dollars ($6,000);

N. O. L. asylum. For provisions, household and current expenses of the northern Ohio lunatic asylum, six thousand dollars ($6,000);

Deaf and dumb asylum. For the salaries of superintendent, steward, matron, physician and teachers of the Ohio institution for the education of the deaf and dumb, two thousand two hundred and fifty dollars ($2,250);

Same. For provisions, household and current expenses of said institution, three thousand dollars ($3,000);

Blind asylum. For salaries of officers, teachers, and other employees in the Ohio institution for the education of the blind, one thousand five hundred and seventy-five dollars ($1,575);

Same. For provisions, household and current expenses of said institution, three thousand two hundred dollars ($3,200);

Asylum for idiots. For the salaries of the superintendent, other officers and teachers of the Ohio state asylum for idiots, five hundred and fifty dollars ($550);

Same. For provisions and necessary household expenses of the said asylum, five hundred dollars ($500).

STATE REFORM FARM.

State reform farm. For the salaries of the officers of the state reform farm, one thousand dollars ($1,000);

For provisions, clothing, lodging, school books for, and the education and training of boys, four thousand dollars ($4,000).

OHIO PENITENTIARY.

Penitentiary—officers. For payment of salaries of the directors, warden, deputy warden, clerk, physician, moral instructor, and assistant teachers of the Ohio penitentiary, one thousand five hundred and two dollars ($1,502);

Guards and night watch. For payment of guards and night watches of the Ohio penitentiary, five thousand two hundred and five dollars ($5,205);

Provisions, &c. For payment for provisions, clothing, repairs of all kinds, fuel, lights, hospital, and other necessary current expenses of the Ohio penitentiary, fourteen thousand four hundred dollars ($14,400);

Costs of prosecution. For payment of costs of prosecutions and conviction and transportation of convicts to the Ohio penitentiary, six thousand two hundred and fifty dollars ($6,250);

Discharged convicts. For allowance to discharged convicts, to pay their expenses to their homes, three hundred dollars ($300).

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To authorize city councils in cities of the first class having a population of less than eighty thousand and more than thirty-five thousand, to appoint inspectors of provisions and other articles.

Curwen's R. S., 2156, 2491, 2512; Curwen's Laws, 315, 336.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in every city in the state of Ohio of the first class, now having a population of less than eighty thousand and more than thirty-five thousand, the city council shall have exclusive power to appoint any citizen or citizens of said city, whom said city council may deem suitably qualified to act, within and for said city, as inspectors of such articles as are specified in the act entitled "an act for the inspection of certain articles therein named," passed March 9, one thousand eight hundred and thirty-one, and the act to amend the same, passed February eleventh, one thousand eight hundred and thirty-two; which said inspectors shall, within and for said city, have the same powers, perform the same duties, take the same oaths or affirmations, be governed by the same rules, and liable to the same penalties as are prescribed in the acts above mentioned.

Appointment of inspectors authorized.

Swan's R. S., 469.

Their duties, &c.

SEC. 2. The appointment, with the license hereinafter provided for, may authorize said inspector or inspectors, or any one or more of them, to inspect any one or more of the articles named in the act above mentioned.

Their authority.

SEC. 3. Every person appointed by said council, as an inspector under the provisions of this act, shall, before entering upon the duties of his office, enter into bond with sufficient security, to be approved of by the said council, in the penal sum of three thousand dollars, for the inspection of beef, pork, butter and lard, one thousand dollars for the inspection of fish, and one thousand dollars for the inspection of foreign and domestic spirits and linseed oil, conditioned for the faithful performance of the duties of his office; which bond shall be filed and made payable to the treasurer of said city, and shall also, if the council shall deem it necessary, renew said bond from year to year.

Bond.

SEC. 4. Any person who may claim himself injured by the misconduct, neglect, or incapacity of any said inspectors, may institute suit on a copy of the bond of such inspector, certified by the treasurer of said city, for the use of the person suing; and the same proceedings shall be had thereon, with the same provisions as are contained in the third section of the act, entitled "an act for the inspection of certain articles therein named," passed March ninth, one thousand eight hundred and thirty-one.

Suit thereon.

SEC. 5. The said city council are hereby authorized to require each and every person appointed under the provisions of this act, before entering upon the duties of said office, to pay to the treasurer of said city for the use of said city, such sum, not less than fifty nor more than one hundred dollars, for the license to inspect beef, pork, butter and lard,

Pay for license.

not less than two hundred and fifty nor more than five hundred dollars for the license to inspect fish from year to year, and not less than seventy-five nor more than one hundred dollars for the license to inspect and gauge foreign and domestic spirits and linseed oil, as the said council may from year to year deem proper; and on such payment, shall be entitled to receive from the clerk of said city, a license authorizing the person therein named to act as such inspector until the first day of April next after the date thereof; and in case of a vacancy occurring by death, or otherwise, during the term for which any inspector shall have been licensed, as aforesaid, the council may fill said vacancy by granting a license for such sum as they may deem proper.

Vacancy.

As to inspectors appointed by the court of common pleas.

SEC. 6. That the persons appointed inspectors by the court of common pleas of any county having within its limits a city of the first class as described in this act, shall not exercise their offices within the limits of any city of the first class as described in this act, after the terms for which they shall have severally given bonds shall have expired.

Removal of inspectors from office.

SEC. 7. The said city council shall have full power and authority, on complaint and sufficient cause shown, to remove from office any inspector appointed under this act; provided, always, that no inspector shall be removed from his said office unless two-thirds of all the members of the council shall vote for such removal.

Inspectors' fees.

SEC. 8. That the inspectors to be appointed under this act shall be entitled to receive the following fees for their services, viz: For packing and inspecting every barrel or [of] pork or beef, eighteen cents; for every half barrel, thirteen cents; for packing, examining and inspecting every barrel of fish, twenty cents; for every half barrel, fifteen cents; for inspecting and gauging less than twenty packages of foreign or domestic spirits or linseed oil, ten cents each; over twenty packages, five cents each.

SEC. 9. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Prescribing the duties of county auditors.

Election of county auditor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be elected hereafter by the qualified electors of each organized county in this state, on the second Tuesday in October, biennially, one county aud-

itor for each county, who shall hold his office for two years, from the first Monday of March next succeeding his election, and until his successor is elected and qualified, and shall keep his office at the seat of justice of his county. Term of office. Where to keep his office.

SEC. 2. Each county auditor, previous to entering upon the duties of his office, shall give bond, with two or more sureties, to the acceptance of the commissioners of the county, in such penal sum, not less than two thousand dollars, nor more than twenty thousand dollars, as the said commissioners may require, payable to the state of Ohio, and conditioned for the faithful discharge of the duties of his office; and shall also take and subscribe an oath or affirmation, to be indorsed upon the said bond, that he will faithfully and impartially discharge the duties of his office to the best of his skill and ability; which bond, so indorsed, shall be deposited with the county treasurer, and be by him carefully preserved. His bond and oath.

SEC. 3. If any county auditor shall fail to make settlement, or fail to pay over all moneys with which he may stand charged, at the time and in the manner prescribed by law, or shall misapply any money which may come into his possession in the discharge of his official duties, it shall be the duty of the county commissioners to cause suit to be instituted against such auditor, and his sureties, in the court of common pleas of the said county, or other court having jurisdiction of such cases. That whenever suit shall have been commenced against any delinquent county auditor in manner as aforesaid, the commissioners of such county may, at their discretion, remove such auditor from office, and appoint some person to fill the vacancy thereby created, as heretofore by law provided. Suits against him for official delinquencies. His removal from office. The vacancy.

SEC. 4. Suit may be instituted on such bond, against the county auditor and his securities, in the name of the state of Ohio, and for the use of the state, county, or any party or persons injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law. Who may sue on his bond, and for what.

SEC. 5. If any person elected to the office of county auditor shall not give bond, and take the oath or affirmation as required in the second section of this act, on or before the first Monday of March, next after his election, the office shall be considered vacant. Failure to give bond, &c., shall vacate office.

SEC. 6. When a vacancy shall happen in the office of county auditor, either from death, removal out of the county, resignation, failure to give bond, or from any other cause, the county commissioners of the proper county shall appoint some suitable person to fill such vacancy; and the person so appointed shall give bond, and take and subscribe an oath or affirmation, as required in the second section of this act, and shall hold his office until the next annual election to be held in such county, and until his successor shall be elected and qualified. Vacancy, how filled.

Appointment, &c., of deputy.

SEC. 7. When any county auditor, having no deputy, shall be unable, by reason of sickness, or from any other cause, to perform the duties of his office, within the time specified by law for their performance, or when both the auditor and his deputy shall be so disabled by sickness or otherwise, the county commissioners of the proper county shall appoint some suitable person to do and perform the duties of county auditor, during such disability, and may require of the person so appointed, such bond and security, for the faithful discharge of the duties of the appointment, as they shall deem expedient.

Who ineligible to the office.

SEC. 8. No judge of the supreme court or of the court of common pleas, or clerk of either of said courts, county commissioner county recorder, county surveyor or county treasurer, shall be eligible to the office of county auditor.

Auditor and his deputies may administer oaths.

SEC. 9. The county auditors and their deputies are hereby authorized to administer any oath or affirmation rendered necessary to the performance of any of the duties of their respective offices.

Auditor's duty as clerk of county commissioners.

SEC. 10. The county auditor shall by virtue of his office, be clerk to the board of county commissioners of his county, and shall keep an accurate record of their corporate proceedings, and shall carefully preserve all the documents, books, records, maps, and other papers, required to be deposited or kept in his office.

Delivery of books to successor.

SEC. 11. Each county auditor, on going out of office, shall deliver up to his successor in office all the moneys, books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and in case of the death of any county auditor, his personal representative shall, in like manner, deliver up all such books, moneys, records, maps, documents and other property.

Account with treasurer, and filing receipts.

SEC. 12. The county auditor shall keep an accurate account current with the treasurer of his county; and when any person shall deposit with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor shall file such receipt in his office, and shall charge the treasurer with the amount thereof.

Claims against the county, how paid.

SEC. 13. No claims against the county shall be paid otherwise than upon the allowance of the county commissioners upon the warrant of the county auditor, except in those cases in which the amount due is fixed by law, or is authorized to be fixed by some other person or tribunal, in which cases the same shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same: provided, that no public money shall be disbursed by the county commissioners, or any of them, but the same shall be disbursed by the county treasurer upon the warrant of the county auditor, specifying the name of the party entitled to the same, on what account, and upon whose allowance, if not fixed by law; and

Auditor's warrants.

all such orders shall be progressively numbered, and the number, date and amount of each, and the name of the person to whom payable, and the purpose for which drawn, shall, at the time of issuing the same, be entered in a book to be kept by the auditor for that purpose. Account thereof

SEC. 14. The county auditor shall annually, on or before the fifteenth day of April, make out and deliver to the assessor, a schedule of all lands and town lots within his county which are found, from his knowledge, or from the certificate of the auditor of state, to have become subject to taxation, and which have not been appraised for that purpose, directing such assessor to assess the same, and make return thereof to him on or before the third Monday of May next ensuing. When to furnish assessor with lists of lands.

SEC. 15. When an alteration of any list entered on the grand levy may become necessary, by reason of the partition of any tract of land or town lot, the county auditor, on receiving information thereof, shall transfer to the several parties in partition the portion set apart to him, her or them, particularly describing the parts so transferred; and shall apportion and transfer the valuation of such land or town lot to the several parties in proportion to their respective interest therein, previous to such partition. His duty in making transfers.

SEC. 16. When any county auditor shall be satisfied that the transfer of any land or town lot, or any part thereof, has become necessary, by reason of a sale thereof, or any part thereof, for taxes, a sale by a sheriff or other officer, by virtue of an execution, order of court, or decree in chancery, or by reason of a devise or descent, he shall make such transfer; and in such case, if a part only of the tract of land or town lot shall be transferred, the proportion of the valuation to be transferred therewith shall be ascertained by the assessor; and for that purpose the auditor shall furnish the assessor with a list of such lands and town lots, at the time specified in the fourteenth section of this act for delivering the schedule therein named. Same. —and when assessor to value parts of transferred land.

SEC. 17. When the transfer of any land or town lot, or any part thereof, shall become necessary by reason of a sale or conveyance by deed, and such conveyance shall be for the entire tract or lot, or part thereof, as charged on the duplicate, such transfer shall be made by the county auditor, upon presentation of such deed, by the purchaser or his agent; and in case such conveyance shall be for less than the whole tract or lot, or part thereof, as charged on the duplicate, said county auditor shall transfer the same, whenever the seller and purchaser shall agree thereto in writing, signed by them, or personally, before the auditor shall agree upon the amount of valuation to be transferred therewith; but if the seller and purchaser cannot agree as to the amount of valuation to be transferred, the auditor shall place said portion of land or lot on the list, to be by him made according to the sixteenth section of this act; and the Further duty as to transfers

value thereof shall be ascertained and returned by the assessor, in the same time and manner of other lands contained in said list. And such auditor shall indorse on all deeds (purporting to be deeds of unconditional conveyance of real estate,) which may be presented to him for transfer, the evidence in writing, with his signature thereto, of the proper entry of such transfer having been made according to law, in his office, unless the same shall be for lands not entered for taxation on the books of the county auditor, in which case he shall indorse thereon "not entered for taxation;" and it shall be the duty of each county recorder, before recording such deeds, to require the indorsement to be made as aforesaid, at the expense of the party interested: provided, that if the county auditor shall be satisfied that the proportion of the valuation so agreed to be transferred is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudulently to evade the payment of any taxes which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and when any such transfer has already been procured by such fraudulent agreement, the same shall be canceled by the auditor, and the land or lot so transferred shall be charged with taxes in the same manner as though such transfer had not been made.

Recorder's duty.

Auditor may cancel transfers fraudulently procured.

He may examine records free of charge.

SEC. 18. The county auditor in order to the performance of the duties herein required of him, shall, at all reasonable times, have a right to examine the records of deeds in his county, free of charge.

How he may make out duplicate.

SEC. 19. Any county auditor in this state may, in making out his duplicate of taxes, place each town lot in its numerical order, and each separate parcel of land in each and every township according to the numerical order of the section.

To correct errors in duplicate

SEC. 20. The county auditor shall, from time to time correct all errors which he shall discover in his duplicate, either in the name of the person charged with taxes, the description of land or other property, or in the amount of such tax; and when the auditor is satisfied, after having delivered the duplicate to the county treasurer for collection, that any tax thereon, or any part thereof, has been erroneously or improperly charged, he may give to the person charged therewith a certificate to that effect, to be presented to said treasurer, who shall deduct the amount from said tax.

When and how to settle with treasurer.

SEC. 21. The county auditor shall attend at his office, on or before the fifteenth of February, and also on or before the tenth day of August, annually, to make settlement with the treasurer of his county, and ascertain the amount of taxes with which such treasurer is to stand charged; and the auditor shall, at each August settlement, take from the duplicate, previously put into the hands of the treasurer for collection, a list of all such taxes as such treasurer shall

have been unable to collect, therein describing the property on which said delinquent taxes are charged, as the same is described on such duplicate, and shall note thereon, in a marginal column, the several reasons assigned by such treasurer why such taxes could not be collected; and such last mentioned list shall be signed by the treasurer, who shall testify to the correctness thereof, under oath or affirmation, to be administered by the auditor; and in making such list, the delinquencies of each township shall be kept separate and distinct; and after deducting the amount of taxes so returned delinquent and the collection fees allowed the treasurer, from the several taxes charged on the duplicate, in a just and ratable proportion, the treasurer shall be held liable for the balance of such taxes; and the auditor shall certify, in the manner required by law, the balance due to the state, the balance due to the county, the balance due for road purposes, and the balance due to the townships, and shall forthwith record such list of delinquencies in his office.

Treasurer liable for balance.

Statement of balances to be forwarded to auditor of state.

SEC. 22. The county auditor shall open an account with each township, city, incorporated village, special road, or school district, in his county, in which, immediately after his semi-annual settlement with the county treasurer, in February and August of each year, he shall credit each township, city, incorporated village, special road district, special school district, with the net amount so collected for the use of any such township, village or district, and on application of any township, city, village, road or school treasurer, the auditor shall give him an order on the county treasurer for the amount then due to such township, city, village, road or school treasurer, and shall charge them respectively with the amount of such order: provided, that the person so applying for such order shall deposit with the auditor a certificate from the clerk of the township, city, village or district, stating that such person is treasurer of such township, city, village or district, duly elected or appointed, and that he has given bond according to law.

How auditor to keep accounts with townships, cities, villages and special road or school districts.

To give order for funds to treasurer of each, upon certificate of official character.

SEC. 23. The county treasurer, or his deputy, shall attend at the court house in his county, on the second Monday in January, in conformity with the notice provided in section 50 of the [this] act, and shall then and there, at and after the hour of ten in the forenoon, proceed to offer for sale, separately, each tract of land or town lot contained in the advertisement aforesaid, and on which the taxes and penalty have not been paid; and the person or persons offering at said sale to pay the taxes and penalty charged on such land or lot, for the least quantity thereof, shall be the purchaser or purchasers of such quantity, and the treasurer shall continue such sale from day to day, until each tract of land or town lot contained in such advertisement, and on which the taxes and penalty remain unpaid, shall be sold, or offered for sale.

How delinquent lands sold by county treasurer.

SEC. 24. The person or persons purchasing such tract of land or town lot, or any part thereof, shall forthwith pay to

How to proceed if purchaser fails to pay.

the treasurer the amount of taxes and penalty charged thereon; and on failure so to do, the treasurer shall immediately offer said land or town lot again for sale, in the same manner as if no such sale had been made; and the person so failing to make payment shall forfeit and pay a penalty of twenty-five per centum on the amount of said tax and penalty, to [be] recovered by an action of debt, in the name of the treasurer, for the use of the county, before any justice of the peace or court having jurisdiction thereof.

Auditor or deputy to attend sales and make a record thereof.

SEC. 25. The county auditor, or his deputy, shall attend all such sales of delinquent lands and lots, made by the treasurer of his county, and shall make a record thereof in a substantial book, therein describing the several tracts of land and town lots offered for sale, as the same shall have been described in the advertisement aforesaid, and stating how much of each tract or town lot was sold, and to whom sold; and if any tract or lot shall remain unsold for want of bidders, he shall so enter it on the record; and the auditor shall make out and certify a copy of said record, and forward the same to the auditor of state, by the county treasurer, at the time such treasurer makes his annual return of state tax next after such sale.

To forward copy of record to auditor of state.

Certificate of purchase.

SEC. 26. The auditor shall make out and deliver to the purchaser of any land or lots, sold for delinquent taxes as aforesaid, a certificate of purchase, therein describing the land or lots so sold, as the same was described in the tax duplicate, and stating therein the amount of taxes and penalty for which the same was sold; and if only a part of a tract be sold, such certificate shall specify the quantity sold, and shall be directed to the county surveyor, whose duty it shall be, when requested by the purchaser, his assignee or heirs, to lay off, by metes and bounds, in a square, as near as practicable, at the most northwesterly corner of the tract from which the sale was made, the quantity so sold; and if the sale be made from an in-lot or out-lot in any town, or from any particular part thereof, it shall be the duty of the county surveyor so to lay off the part or portion sold, that it shall extend from the main or principal street, road or alley, which may be the most convenient front, to such lot, to the rear of the lot, and to bound the same by lines as nearly parallel with the outlines of such lot as practicable.

Duty of county surveyor under such certificates.

When survey and deeds shall be made.

SEC. 27. No deed shall be made by the county auditor, for any land or lot, sold as aforesaid for taxes, until the expiration of two years from and after such sale; nor shall the survey thereof, required by the certificate of purchase, be made until expiration of that time.

Certificates assignable.

SEC. 28. Said certificates of purchase shall be assignable in law and an assignment thereof shall vest in the assignee or his legal representatives, all the right and title of the original purchaser.

When auditor to make deeds.

SEC. 29. At any time after the lapse of two years from the time of such sale for taxes, if the land or lot so sold

shall not have been redeemed, the county auditor, or any of his successors in office, shall, on request, and on production of the certificate of purchase, and in case of the sale of part only of a tract of land or lot, on production of the county surveyor's return of a survey, in case he shall deem such survey necessary, in conformity with the requisitions of such certificate, execute and deliver to the purchaser, his heirs or assignee, as the case may be, a deed of conveyance for the tract of land or town lot, or such part thereof as shall have been sold as aforesaid: Provided, that when two or more parcels of the same tract or lot of land have been, or shall hereafter be sold for the non-payment of taxes, to the same purchaser or purchasers, it shall be the duty of the county auditor, on production of the certificates of the purchaser, or on production of the county surveyor's return of surveys thereof, in conformity with said certificates, when such surveys are required, to execute and deliver one deed of conveyance of the several parcels so sold, to the purchaser or purchasers, his or their heirs or assignees; which deed, so executed or delivered, shall vest in the grantee or grantees, his, her or their heirs or assigns, the same title, both in law and equity, as if the several deeds for each and every parcel so sold, were or had been executed.

When two or more tracts are sold to one purchaser, auditor to make one deed.

SEC. 30. The deed so made by the auditor, shall vest in the grantee, his or their heirs and assigns, a good and valid title, both in law and equity, and shall be received in all courts as prima facia evidence of a good and valid title in such grantee, his heirs and assigns.

Title by deed and its effect as evidence.

SEC. 31. The purchaser, at a sale of lands or lots for taxes, of the interest of any joint tenant, tenant in common or coparcener, or of any part or portion of such interest, shall, on obtaining the deed from the auditor, for the part or portion so by him purchased, hold the same as tenant in common with the other proprietor or proprietors of such land or lot, and be entitled to all the privilege of a tenant in common, until legal partition of such land or lot shall be made.

Purchaser of the interest of joint tenant, &c., to hold in common.

SEC. 32. Upon the sale of any land or town lot for delinquent taxes, the lien which the state has thereon for taxes then due, shall be transferred to the purchaser at such sale; and if such sale should prove to be invalid, on account of any irregularity in the proceedings of any officer having any duty to perform in relation thereto, the purchaser at at such sale, shall be entitled to receive from the proprietor of such land or lot the amount of taxes, interest and penalty, legally due thereon at the time of such sale, with interest thereon from the time of payment thereof, and the amount of taxes paid thereon, by the purchaser, subsequent to such sale; and such land or lot shall be bound for the payment thereof.

Lien of tax purchaser for purchase money &c., if sale invalid.

SEC. 33. No sale of any land or town lot for delinquent taxes, shall be considered invalid on account of its having been charged on the duplicate in any other name than that

Sale not invalid if tract charged in wrong name.

of the rightful owner: Provided, that such land or lot be, in other respects sufficiently described on the duplicate, and the taxes for which the same is sold, be due and unpaid at the time of such sale.

Auditor may make deeds for lands heretofore sold.

SEC. 34. When, by the provisions of any former law, the collector of taxes or the county treasurer was authorized to make deeds for lands or lots by them sold for delinquent taxes, and the same has not been done, the county auditor of the proper county shall be, and he is hereby authorized to make such deeds to all persons entitled thereto; and the deeds which shall be so made by the auditor, shall be as good and valid in law, as if made by the person authorized under such former law to make them.

When certificates have been lost or destroyed, how deeds made.

SEC. 35. In case any certificate or certificates shall have been any time issued to any purchaser or purchasers of land for taxes, under any of the acts heretofore passed on that subject, which certificate or certificates having been mislaid, destroyed, or lost, and that fact being shown to the county auditor, and no deed or deeds having been executed therefor, said auditor being fully satisfied, from evidence, of the existence and loss of any such certificate or certificates, shall, on application for that purpose, proceed to make and execute to such purchaser or purchasers, a good and sufficient deed or deeds of conveyance, for any such tract or tracts of land; which deed or deeds shall be as good and valid in law, to all intents and purposes, as if such certificate or certificates had not been mislaid, lost, or destroyed.

How Auditor to keep minutes of deeds made.

SEC. 36. The county auditor shall enter, in a book to be kept in his office, a minute of all deeds by him made for lands and town lots, or parts thereof, sold for taxes; therein naming the person who stood charged with the taxes at the time of such sale, and the date of the sale, the name of the purchaser, a brief description of the land or lot so sold, the quantity sold, the amount for which the same was sold, the name of the grantee in the deed, and the date of its execution.

—And to note redemption of lands.

SEC. 37. When any tract or portion of land, town lot or part thereof, shall be sold for taxes, and afterwards redeemed, it shall be the duty of the county auditor to insert a minute of such redemption, the date thereof, and by whom made, on his record of sales of land for delinquent taxes, and sign the same officially.

Lands not sold forfeited to the state.

SEC 38. Every tract of land and town lot, offered for sale by the treasurer, as hereinbefore provided, and not sold for want of bidders, shall be and the same is hereby declared to be forfeited to the state of Ohio; and thenceforth all the right, title, claim and interest of the former owner or owners thereof, shall be considered as transferred to, and vested in said state, to be disposed of as the Legislature may by law direct; and the county auditor shall annually return by his treasurer, a separate list of all lands or town lots so forfeited, with the description thereof, and the amount of tax due

Auditor to return list of same to the auditor of state.

thereon to the auditor of state, and all such lands or lots shall be preserved on the duplicates until sold or redeemed, and the taxes thereon regularly assessed, in the name of the state of Ohio; which taxes shall be returned annually by the treasurer, as delinquencies, and credited to him as other delinquencies, in his settlement.

To retain same on his duplicate.

Sec. 39. If the former owner or owners of any tract of land or town lot, which may be forfeited as aforesaid, shall, at any time before the state shall have disposed of such land or lot, pay into the county treasury of the county in which such land or lot may be situated, or into the state treasury, all the taxes and penalties due thereon at the time of such forfeiture, together with the taxes and penalties which have since accrued on such land or lot, (which sum shall be ascertained and certified by the auditor,) the state shall, in such case, relinquish to such former owner or owners, all claim to such land or lot; and the county auditor shall then re-enter such land or lot on his duplicate, with the name of the proper owner or owners.

Forfeited lands —how redeemed.

Sec. 40. The county auditor shall charge the county treasurer with all moneys by him received, under the provisions of the preceding section; and shall make out an annual list of lands and town lots, upon which payments shall have been made as aforesaid, specifying therein the proportion of such money belonging to the state; and shall forward said list to the auditor of state, by the county treasurer, at the time of paying over the state tax, and the county treasurer shall pay into the state treasury, the state's proportion of such money, at the time he pays the other taxes due the state.

Auditor to charge treasurer with all moneys received on forfeited lands and report same to auditor of state.

Sec. 41. The auditor of state shall, from time to time, furnish the several county auditors with all such forms and instructions as he may wish them to pursue, in the performance of their several duties; and the said auditors shall observe them accordingly.

Auditor of state to furnish forms to county auditors.

Sec. 42. If the taxes charged on any land or lot be regularly paid, and such land erroneously returned delinquent and sold for taxes, the sale thereof shall be void; and the money paid by the purchaser at such void sale, shall be refunded to him out of the county treasury, on the order of the county auditor, and that so much of said tax as has been paid into the state treasury, shall be refunded to the county treasury; and the county auditor shall retain the same in his next semi-annual settlement, and charge the state treasury therewith, in said settlement.

Sale of land for taxes regularly paid, void.

Proceedings in such case.

Sec. 43. The county auditor of the county in which any land or town lot shall have been, or may hereafter be sold for taxes, under the provisions of this act, is hereby authorized and required to execute the proper deed therefor, to the person or persons entitled to receive the same, whether the said land or town lot shall, at the time of the execution of

When auditor may make deeds for lands in other counties.

said deed, continue to be within said county or not, in the same manner as though the said land or town lot still remained within the limits thereof, any law to the contrary notwithstanding.

Auditor may discharge from imprisonment an insolvent who owes fine, &c.

SEC. 44. The county auditors of the several counties in this state be, and they are hereby authorized to discharge from imprisonment any person who shall be confined in jail, for the non-payment of any fine or amercement due to the county, when such auditor shall be of opinion that the same cannot be collected by such imprisonment.

Fees for transfers not to exceed one dollar.

SEC. 45. The fees of the several county auditors, for transfer of real estate for taxation, shall, in no case, exceed one dollar, where the property transferred is included in one title, whether by deed of conveyance, decree in chancery, or other assurances of title.

Filing away tax statements — how done.

SEC. 46. It shall be the duty of the several county auditors in this state, in filing away the statements of the taxable property of the individual tax payers as returned by township assessor, in pursuance of law, to file the statements aforesaid returned from the different townships in separate bundles, each township by itself, instead of filing each statement separately. The county auditors shall be allowed and paid out of the county treasury, the sum of twenty-five cents, and no more, for filing away the statements of taxable property in each township in their respective counties.

Auditor's fees therefor.

Auditor to transfer land sold for taxes.

SEC. 47. Every county auditor hereafter delivering any certificate of purchase of forfeited lands, or other lands sold for taxes, shall immediately, on his duplicate, transfer the same into the name of the purchaser, charging therefor the sum of ten cents, which shall be considered part of the expenses of the sale. And if any county auditor shall neglect to make such transfer he shall be liable to action by any person injured thereby as for a neglect of official duty.

Publication of list of delinquent lands.

SEC. 48. The auditors of the several counties in this state shall cause the list of delinquent lands, in their respective counties, to be published at least four weeks between the third Monday of November and the first Monday in January, in some newspaper printed in their respective counties, if any be printed therein, and if none be printed therein, then in some newspaper having general circulation in such county, to which list there shall be attached a notice that the whole of the several tracts, or town lots in said list contained, or so much thereof as will be necessary to pay the taxes and penalty charged thereon, will be sold at the court house, in such county, on the second Monday of January next thereafter, by the county treasurer, unless such taxes and penalty be paid before that time.

Notice of sale.

Copy thereof to be inserted at foot of record of delinquent list; certificate as to their publication.

SEC. 49. The county auditor shall, on or before the day of sale mentioned in such notice, insert, at the foot of the record, on delinquent list, a copy of such notice, and shall moreover certify on said record, immediately following such

notice, the name of the paper, and the length of time such list and notice were published therein.

Auditor to compare delinquent list with duplicate.

SEC. 50. Immediately before advertising such list of delinquent lands and lots, it shall be the duty of the county auditor to compare the same with the duplicate in the hands of the county treasurer, and strike therefrom all lands or town lots upon which the taxes, interest and penalty of the preceding year, with the taxes of the current year, shall have been paid, and proceed to advertise the remainder, as herein provided.

Proceedings when delinquent list not published.

SEC. 51. In all cases where any county auditor, by inadvertence or mistake, shall have, this year, omitted, or in any future year shall omit, to publish the delinquent list of his county, according to the requirements of this act, it shall be his duty, in case the taxes and penalty with which the land and town lots therein stand charged, shall not, before the tenth day of August of the next succeeding year, have been paid, to charge the said lands and town lots with the said taxes and penalty, and also the taxes of the current year, and record, certify and publish the same as part of the delinquent list, according to the provisions of this act.

Proceedings when land omitted from duplicate.

SEC. 52. In all cases where any county auditor, by inadvertence or mistake, shall this year, have omitted, or in any future year shall so omit, to enter upon the duplicate of his county, any lands or town lots, situate within his county, subject to taxation, it shall be his duty, when he shall enter the same on the duplicate of the next succeeding year, to add to the taxes of the current year, the simple taxes of each and every preceding year in which such land or town lot shall so have escaped taxation.

Fees for publication of delinquent or forfeited list.

SEC. 53. There shall be hereafter allowed to the publishers of newspapers for advertising the delinquent and forfeited lists of the several counties of this state, a sum not exceeding thirty cents for each tract of land, or town lot, or part of lot advertised in the delinquent list, and not exceeding thirty cents for each tract, lot or part of lot advertised in the forfeited list, and a sum not exceeding one dollar per square of three hundred ems, for the first three insertions, and twenty-five cents per square for each additional insertion for the heading, head lines, and certificate of any such advertisements: Provided, that in no case shall a greater sum than one-half of the taxes, interest and penalty due, be allowed for advertising any such tract of land, town lot or part of lot.

Paper containing lists to be sent to auditor of state, and printer's account.

SEC. 54. It shall be the duty of the county auditor, to send, by mail, to the auditor of state, one paper containing the list of delinquent and forfeited lands, and a copy of the account to [of] the printer, as sworn to by him and allowed by the auditor.

SEC. 55. The several county auditors shall not be required to assess on the taxable property of their counties,

Provisions as to rates of taxation resulting in fractions, &c.

or of any township, city, incorporated village, or school district therein for any purpose, nor for all purposes added together, any rate of taxation containing or resulting in any fraction other than a decimal fraction, nor in any decimal fraction less than one-twentieth of a mill; but if the sum required to be raised for any, or for all purposes, results in a fraction less than one-fortieth of a mill, such fraction shall be dropped, and if more than one-fortieth of a mill, the difference between such fraction and one-twentieth of a mill shall be added to such resulting fraction.

Auditor to furnish assessors blanks for taking number of acres of wheat, rye, barley, &c., and to forward statements to commissioner of statistics.

SEC. 56. It shall be the duty of the county auditor to furnish to the assessors, such blanks as may be necessary for taking the number of acres of wheat, rye, barley, buckwheat and corn, and the quantity of each produced in their townships, and the said county auditors shall as soon as possible after the aforesaid statements are returned to him, make out and forward the same to the commissioner of statistics, in conformity with such regulations and forms as the said commissioner may prescribe. An act prescribing the duties of county auditors, passed March 23, 1840; section three of an act passed March 22, 1849, to give additional security to land titles in this state; an act passed March 25, 1841, entitled "an act prescribing the duties of county auditors, passed March 23, 1840;" an act passed March 7, 1843, entitled "an act to amend an act entitled an act prescribing the duties of county auditors, passed March 23, 1840;" an act passed February 24, 1844, entitled "an act prescribing the duties of county auditors, passed March 23, 1840;" an act fixing the prices of printers for publishing the delinquent and forfeited lists, passed March 9, 1849; an act passed February 28, 1846, entitled "an act fixing the prices of printers for the insertion of legal advertisements, passed March 12, 1844;" an act regulating the office of county auditors, passed March 12, 1852; an act passed March 27, 1858, entitled "an act to revive an act allowing fees to county auditors for filing and preserving certain papers, passed February 24, 1848;" be and the same are hereby repealed: provided, that the repeal of the aforesaid acts shall in no wise affect any liability, civil or criminal, nor any rights accruing under the said acts.

Acts repealed: Swan's R. S., 62, 70, 71, 72, 73; 55; Laws, 21; Curwen's R. S., 630, 1495, 781, 949, 1020, 1485, 1248, 1748; Curwen's Laws, 520, 886, 631, 688, 881, 802, 939.

SEC. 57 This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Conferring certain powers on, and prescribing certain duties of, the board of public works.

General powers of board.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of public works shall have charge of the public works of the state, and shall have power to perfect, render useful, maintain, keep in repair and protect the same; and to that end shall have power to remove obstructions therein or thereto, and to make such alterations or amendments thereof, (whether now or hereafter constructed,) and to make such feeders, dykes, reservoirs, locks, dams and other works, devices and improvements, as they may think proper for the respective purposes aforesaid. That each member of said board shall have the like powers, in respect to the division of the public works under his special charge, subject, however, to the control of the board; but he shall not undertake the construction of any new work whose cost would exceed two thousand dollars, without the previous direction of the board. That to enable them to exercise the powers aforesaid, it shall be lawful for the board, and each member thereof, within his proper division, to purchase in the name and on behalf of the state, such real or personal property, rights or privileges, as may be necessary for the respective purposes aforesaid; and also, to agree with any owner whose property may be appropriated as hereinafter mentioned, upon the sum of money to be paid by the state as compensation therefor, and to pay the same in the manner designated by law. And it shall also be lawful for the board, and each member thereof, and every superintendent, agent or engineer employed by them or him, to enter upon, take possession of and use, upon the conditions and subject to the limitations hereinafter prescribed, any lands, waters, streams or materials necessary for the respective purposes aforesaid, doing, nevertheless, no unnecessary damage. And they may also enter upon any lands for the purpose of making any surveys or taking any levels that it may be necessary or expedient to make or take, in the discharge of their respective duties.

Of each member in his division.

May purchase property and privileges for state.

May take property of citizens for public use.

Appropriation of private property—title which vests in the state.

SEC. 2. Private property may be appropriated for the respective uses specified in the first section of this act, as follows: When the public use to be made of the property would render it substantially valueless to the owner, all estates therein, or rights thereto, may be appropriated, and upon the proper proceedings being had as hereinafter provided, shall vest in the state. When the public use of the property will be temporary, or at intervals only, or when for any other reason it may be unnecessary or inexpedient to appropriate the fee simple therein, or absolute right thereto, an easement, or right, commensurate with the use to be made thereof, may be appropriated; a good and sufficient title to which easement, or right, upon the proper proceed-

ings being had as hereinafter provided, shall vest in the state. When a breach, other injury or obstruction, destructive of or materially impairing the immediate use of any of the public works, (by which term is meant not only the main works, but also all other works, structures or devices connected with or appurtenant thereto,) shall happen, or exist, or be in immediate danger of happening, or when such breach, injury or obstruction, or danger thereof, shall occur in any work in process of construction, and repairs or protection shall be immediately necessary for the preservation or restoration of the same, such cases, all and singular, shall be deemed cases of public exigency justifying the immediate seizure of private property to repair or protect such works, or to be used permanently or temporarily, as places of deposit of materials for those purposes, or of matter removed in making such repairs or protection. In all other cases provided for by this act, a compensation for the property to be appropriated shall first be made in money, or first secured by a deposit of money, as hereinafter provided.

What deemed public exigency.

Compensation for the property.

Mode of making appropriations.

SEC. 3. The mode of making appropriations under this act shall be as follows: In a case of public exigency, as defined in the preceding section, the private property necessary to repair or protect the public work may be seized, either absolutely or for a temporary use, by the board aforesaid, or either of their members, or any one of their superintendents, agents or engineers, and the rights thereto, or to such temporary use, shall immediately vest in the state. In all other cases the appropriation shall be made by the board, or one of the members thereof. In such case of public exigency, if the property be immediately seized without first paying for the same, it shall be the duty of the board, or some one of their members, (if the compensation to be paid therefor be not agreed upon with the owner,) without delay to make and officially subscribe as many certificates, in all respects alike, as may be necessary, containing: First: A description of the property so taken, with the time or times when taken, and whether taken absolutely or for temporary use, and if the latter, the extent of the use, and the name or names of the owner thereof. Secondly: An offer on behalf of the state to pay therefor a specific sum of money, being such sum as the board, or their member, shall deem reasonable; one of which certificates shall be delivered to each of the owners of the property so taken, if resident within this state, or left at his or her usual place of abode therein; provided, that if any owner be a minor, idiot or insane person, having a guardian resident within this state, service of said certificate, in manner aforesaid, shall be made on such guardian, which shall be deemed good service upon the ward. But if any owner or guardian reside without this state, or his place of residence be unknown to the board, then notice to him or them may be given either by personal service of such certificate, or by publishing the

In cases of public exigency.

same for four consecutive weeks in some newspaper of general circulation in the county wherein the property was taken. One of said certificates, with proof of its having been served or published as aforesaid, and the date of such service or publication, shall be filed and preserved in the office of the board. If any owner, or his or her guardian as aforesaid, shall at any time after the seizure of his or her property as aforesaid, and within one year after the service of the certificates as aforesaid, or its last publication as aforesaid, as the case may be, elect to take the sum of money so offered, or, in case of joint ownership or tenancy in common, his or her proper proportion thereof, the board or the proper member thereof, shall pay, or cause the same to be paid to him or her, and shall take therefor a receipt specifying on what account the same is paid; and such payment shall discharge all claims of such owner against the state by reason of the premises. But if he or she shall be unwilling to accept said offer of compensation, he or she may, within the year aforesaid, notify the board, or the proper member thereof, (namely, the member having special charge of the division where the property was taken,) of such unwillingness, and if the board, or said member, and the owner can not agree upon the compensation to be paid, the owner may at any time afterwards, within said year, file in the probate court of the county wherein the property taken was situate when taken, or if it was a tract of land situate partly in one and partly in another county or counties, then in the probate court of either of said counties, one of said certificates, or a copy thereof, (which copy shall be furnished to him or her by the board, or proper member thereof, if demanded,) and require the judge of said probate court to empannel a jury and to issue a venire for them in the manner hereinafter provided in section four; which venire shall be served and returned as provided in said last named section. Before such venire shall be issued, the owner shall notify the board, or proper member thereof, when it will be issued. Upon such venire being issued, the same proceedings shall be had, so far as the same may be applicable and practicable, in respect to the filling of vacancies, the qualifying of the jurors, the power to administer oaths or affirmations, the making and return of awards, conduct of trials, return of verdicts, exceptions or petitions in error, and all other matters, as are hereinafter provided in respect to cases not of public exigency. In cases other than those of public exigency as aforesaid, the proceedings shall be as follows: the board, or some member thereof, shall make and officially subscribe as many certificates, in all respects alike, as may be necessary, stating, First: The intention of the state to appropriate the property, use, or easement, describing it as fully and accurately as would be necessary in a conveyance, and also stating the name of the owner or owners thereof. Secondly: The specific sum of money that the

—In other cases.

state is willing to pay therefor, which shall be such a sum as the board, or the member having special charge of the work for which the appropriation is to be made, shall deem reasonable. Thirdly: That if the owner or owners do not, within a time to be specified in the certificate, (which time such board or member may fix, allowing a reasonable period after service or publication of the certificate, as hereinafter provided,) accept said sum as full compensation for such property, use, or easement, then, after a specified day the state will cause the property intended to be appropriated, or in, to, or over which an use or easement is intended to be appropriated, to be condemned to the state, and the value of such property, use, or easement to be assessed pursuant to law. One of said certificates shall be delivered to each of the owners of the property intended to be appropriated, or in, to, or over which an use, or easement is intended to be appropriated, his or her guardian, or publication thereof made, in the same manner and under the same circumstances herinbefore provided, in respect to the certificates first herein mentioned. Another of said certificates shall be filed and preserved in the office of the board, with proof of the service or publication thereof, showing the date or dates of such service or publication; and if the appropriation be of real property, or of an easement in or upon such property, and be finally made, it shall be the duty of some member of the board to indorse upon another of said certificates the words "appropriation made," with the date when the appropriation was perfected, and to officially subscribe such indorsement and cause such certificate and indorsement to be recorded in the recorder's office of the county in which the property is situate. If any owner, his or her guardian, as aforesaid, shall, at any time before the appropriation mentioned in said certificate shall be made, elect to take the compensation specified in said certificate, or, in case of joint ownership or tenancy in common, his or her proper proportion thereof, the board, or proper member thereof, shall cause the same to be paid to him or her, or his or her guardian, and shall take the receipt of such owner or guardian therefor, and upon such payment all the title or right of such owner in or to the property, use, or easement appropriated, shall vest in the state; provided, however, that, in case of joint ownership or tenancy in common, when some of the owners or tenants elect, and others do not elect, to take the compensation offered as aforesaid, payment to those electing to take may, in the discretion of the board or the proper member thereof, be withheld until the proceedings against those so refusing or failing be terminated, and if, upon the termination of such proceedings, the board, or proper member thereof, shall be of the opinion that the amount or amounts assessed, together with those payable to the joint owner or tenant electing to take the offer of the state as aforesaid, would be too great to justify the in-

tended appropriation, it shall be lawful for the board, or such member, to pay the costs of said proceedings and refuse to make the appropriation; in which event said costs shall be so paid, and nothing more. And provided, further, that if any owner, his or her guardian, electing to take the compensation offered by the state as aforesaid, shall fail to make that election until after proceedings for an assessment shall be commenced as hereinafter provided, he or she shall, before receiving such compensation, if required by the board or proper member thereof, pay the costs of such proceedings, or if the proceedings be against others as well as himself or herself, his or her proper proportion of said costs, or he or she may elect to let the state pay the same and deduct it from said compensation.

Same.

SEC. 4. If any owner or owners, notified as provided in the next preceding section, shall not, within the time specified for that purpose in the certificate mentioned in said section, signify to the board, or some member thereof, his, her, or their acceptance of the compensation offered by said certificate to him, her, or them, it shall be lawful for the board, or any member thereof, at any time after the expiration of the time named in said certificate for such owner or owners to accept the offer of the board, to file one of said certificates, with proof of the service or publication thereof, in the probate court of the county wherein the property intended to be appropriated is situate, or, if the property be a tract of real estate, situate partly in one and partly in another county or counties, then in the probate court of either of said counties; and thereupon, it shall be the duty of the probate judge forthwith to notify the clerk of the court of common pleas and sheriff of the county of the filing of such certificate; and the said clerk and sheriff shall, within one day after receiving such notice, proceed to draw out of the box containing the names of persons returned to serve as jurors in the court of common pleas, a jury of twelve, in the same manner that juries are drawn for the trial of causes in the court of common pleas, for the purpose of estimating or assessing the damages such owner or owners shall receive by reason of such appropriation; and the said clerk shall immediately return the names of jurors, so drawn, to the probate judge, who shall thereupon issue his venire to the sheriff, or in case of his being a party to the proceedings, to the coroner of the county, to summon the jurors so drawn as aforesaid, to attend on some day specified, at the office of said judge, then and there to be empanneled and sworn to render a just verdict, in the manner prescribed by law. And the probate judge shall, at the time of issuing such venire, issue a notice to the several owners of the property described in such certificate, of the time when such jury will meet at the office of said judge for the purpose aforesaid; which notice such sheriff or coroner shall serve upon the party or

parties therein named, at the time of serving such venire; provided, that if such owner or owners are non-residents of this state, or are unknown, then publication of the objects and purposes of the proceedings shall be made in some newspaper, published in the county, for thirty days next preceding the time named in such venire; which notice shall contain a pertinent description of the property sought to be appropriated, and the name or names of the owner or owners, if the same be known, and the time and place of the proceedings. The probate judge shall have power to issue all subpenas, and all other necessary process, and to administer all necessary oaths in the execution of this act.

Summoning jury, challenge and vacancies.

SEC. 5. It shall be the duty of the sheriff or coroner, on receiving such venire, to summon the persons therein named in the same manner as jurors are summoned to attend the court of common pleas; and jurors may be challenged and vacancies in the juries filled as in other cases. The jury

Oath.

shall be sworn to well and truly assess the compensation to which the owner may be entitled by reason of the premises, without deduction for benefits to any of his or her property. For good cause shown, or by consent of the parties, they may be sent in such custody as the court shall direct, to view the property, the court appointing the person or persons whose duty it shall be to show it to them; but all testimony shall be given in open court. The state shall be entitled to

State to open and close.

open and close, in giving testimony, and in the argument.

Verdict.

The verdict shall be in writing, signed by the jurors, or their foreman; but the court, with the assent of the jurors, may

New trial.

put it in proper form. A new trial shall not be granted, except for misconduct of the jury, or for an erroneous ruling

Exceptions and proceedings in error.

by the court. Exceptions may be taken, as in other cases, to any ruling of the court in matter of law, and a petition in error may be prosecuted in the district or supreme court, if filed within thirty days after the rendition of the verdict, but not otherwise. Such petition shall not be filed without an allowance by the district court or by the supreme court, or a judge thereof. And the proceedings shall not be reversed for any error of form, or other error, not affecting the substantial justice of the case. Upon a reversal of the proceedings, a procedendo may, in a proper case, be awarded, and a new trial had, if thereby commanded. The probate

Record in probate court.

judge shall record the proceedings in that court. including the certificate of intention to appropriate, and the proof of its service or publication, filed in his office as aforesaid.

Payment of costs and compensation.

SEC. 6. After such appropriation is made, it shall be the duty of the probate judge immediately to make up the cost bill of such proceedings, when the board, or proper member thereof, shall, without any unnecessary delay, pay the same, and shall also pay the adjudged compensation by drawing his warrant upon the auditor in the manner prescribed by law, in favor of the proper party; and if the party entitled to such compensation shall not call for the same, the auditor

shall nevertheless issue the proper warrant upon the treasury in his behalf for the same, and shall retain such warrant until called for; and the money shall be taken and held to be deposited in the treasury for the use and benefit of the party entitled to the same, from the date of such warrant: provided, that no interest shall be paid upon the compensation or costs as aforesaid: Provided, that the board or proper member thereof, may, at their option, pay the costs and refuse to make the appropriation, if in their or his judgment, the compensation assessed is too great to justify the appropriation.

Proviso as to right to refuse to appropriate.

SEC. 7. Proof of the service or publication of the certificates aforesaid, when required by this act, may be made by the affidavit of any person having personal knowledge of the fact.

Proof of service of certificates, &c.

SEC. 8. If the property appropriated in a case of public exigency, as hereinbefore provided, or to be appropriated in other cases as aforesaid, shall belong to the heirs, or devisees of a decedent, and the names and places of residence of such heirs or devisees, or of any or either of them, shall be unknown to the board, or the proper member thereof, such persons whose names and places of residence shall be thus unknown, may be described in, all and singular, the papers and proceedings aforesaid, as the unknown heir, or heirs devisee, or devisees, as the case may be, of the decedent, naming such decedent, if his or her name be known to the board, or said member thereof. But if the name of such decedent be unknown to the board, or the proper member thereof, or if the names and places of residence of the owners, or any of them (whether holding by descent, devise or purchase), be in like manner unknown, such owner, or owners, whose names and places of residence shall be thus unknown, may be described in, all and singular, the papers and proceedings aforesaid, by the general description of unknown owner, or unknown owners. And such general description shall also be sufficient when the residence of the owner, or owners, is without this state.

Unknown heirs, &c.

Unknown owners.

SEC. 9. Married women, whose property shall be appropriated under this act, shall be capable of doing all things which it may be lawful or necessary for an owner to do in the premises, as fully as if they were unmarried and of full age. And guardians as aforesaid, shall have as full power to act for their wards respectively, as the wards respectively would have, were they under no disability.

Power of married women and of guardians under this act.

SEC. 10. Corporations, in addition to payment for their property, real or personal, appropriated as aforesaid, shall be entitled to compensation for a destruction, total or partial, of the value of any of their franchises directly caused by such appropriation of their real or personal property, as follows: If the value of the franchise be totally destroyed, such value shall be paid and the franchise shall cease to

Compensation for destruction of franchises;

exist; if its value be but partially destroyed, a ratable compensation shall be made. The compensation to be thus paid shall be ascertained (if not agreed upon by the board or the proper member thereof and the corporation), at the same time and in the same manner that the compensation to be paid for the real or personal property of the corporation appropriated as aforesaid, shall be ascertained; and the jury shall state in their verdict, what is the franchise thus injured, or destroyed, and whether the destruction is total or partial; which finding, if not set aside in the mode hereinbefore provided for vacating verdicts, shall be conclusive evidence of the fact so found, to all intents and purposes.

—how ascertained.

Fees of witnesses, officers, and jurors.

SEC. 11. The witnesses, clerks, sheriff, coroner, constables, and jurors, respectively, for the services required of them by this act, shall receive such fees as they are paid for like services in similar cases. The probate judge shall receive for his services, five dollars in addition to the usual fees for issuing processes and recording the proceedings; the persons appointed to show the property and take charge of the jury upon a view as aforesaid, shall receive such fees for their services as the court may allow; and the expenses of conveying the jurors to the place or places to be viewed, may be allowed by the probate court and taxed as cost. All names drawn from the jury box by the clerk and sheriff, as hereinbefore provided, shall be by them replaced in the box, and the persons whose names were thus drawn shall be liable to service as jurors in the same manner as if they had not been drawn for the special service required by this act.

Jurors' names to be replaced in box.

"Costs," definition of, and by whom paid.

SEC. 12. By the word "costs" in this act, taxable costs only are meant. Unless otherwise herein provided, such costs shall be paid by the state; but upon proceedings in error, the party failing shall pay the costs in error. Judgment for cost may be given in favor of the state, and against the owner, by the court in which the proceedings may be pending, when the owner became liable to pay costs as aforesaid. It shall also be lawful for the board, or proper member thereof, to deduct from the compensation to which any owner may become entitled as aforesaid, all costs for which such owner is liable as aforesaid, and which such owner shall not have paid, and if such deduction be made, the board, or said member, shall pay such costs to the persons entitled thereto, or to the proper clerk for their use.

Damages from breach in or leakage or overflow of canal &c.—proceedings in such cases.

SEC 13. Any person whose property has been or may be injured by any breach in or leakage or overflow of any canal, slackwater, pool, reservoir or other work appertaining to such canal, slackwater, pool or reservoir, or by the want of capacity, or filling up. of any culvert thereof, or the washing away of earth caused by any state dam, under the charge of the board, may at any time within one year from the occurrence of such breach or commencement of such leakage, or happening of the injury occasioned by such culvert or dam, apply to the board, or the proper member

thereof, for damages. The board, or such member, and the claimant, may thereupon agree upon and appoint three disinterested persons to serve as a commission to consider such claim, but if they cannot so agree, the board, or such member, within a reasonable time, shall apply to the governor to appoint three such commissioners, and the governor shall make such appointments. The commissioners shall, before entering upon the discharge of their duties, severally take an oath or affirmation, to faithfully and impartially discharge the duties of their appointment. They shall have like powers as are hereinbefore granted to probate courts in respect to summoning and qualifying witnesses, and all subpenas for witnesses issued by them may be served and shall be returned to them in like manner as if issued by probate courts. They shall meet at such time and place as the board, or the proper member thereof shall appoint, and shall have power to adjourn from day to day, (Sundays excepted,) and from place to place until their duties be completed. The claimant, when he prefers his claim as aforesaid, may deliver to the board, or member, to whom he prefers it, the name of the post office within this state at which he desires to be addressed, and if he do so, it shall be the duty of the board, or proper member thereof, to give him reasonable notice by letter addressed to him, or any agent named by him for that purpose, at such post office, or personally, of the time and place appointed as aforesaid, for the meeting of the commissioners. The commissioners shall examine the canal, reservoir, or other work aforesaid, where the breach, leakage or overflow occurred, or the culvert or dam, if occasioned thereby, and also, as far as may be practicable, the property said to be injured thereby, and shall hear all legal testimony offered by the parties, and having done so, if they, or a majority of them, shall be of the opinion that such injury, if any, resulted from defective construction of the canal, reservoir, culvert, or other work aforesaid, and that such defect might have been avoided by the use of ordinary skill and care in the construction thereof, or that it resulted from the want of proper care in the officers or agents of the state, in maintaining the same, or keeping the same in repair, and also, that the injury was unavoidable by the use of reasonable precaution, vigilance and care on the part of the claimant, then, but not otherwise, the commissioners, or a majority of them, shall award to such claimant such damages, by reason of the premises, as may be just. Their decision, whether in favor of or against the claimant, shall be in writing, signed by those who concur therein, and shall be delivered by them, with all subpenas by them issued, and a statement of the number of days they were engaged in the discharge of their duties to the board, or proper member thereof. Each of them shall receive for his services two dollars per day, if such services be performed in the county wherein he resides; but if per-

Per diem of commissioners.

formed in another county or counties, he shall receive three dollars per day, and mileage at the rate of three cents per mile. Such damages and the costs incident to their ascertainment as aforesaid, shall be paid by the board, or proper member thereof, out of any moneys appropriated by the general assembly for that purpose; provided, however, that if the damages so awarded shall not exceed the costs aforesaid, such damage shall not be paid. And provided further, that if the commissioners, or a majority of them, determine that the claimant is not entitled to damages, he shall pay the costs. And provided further, that it shall be lawful for the board, or proper member thereof, at any time before the decision of the commissioners, to offer to pay the claimant such sum of money as the board, or said member, may think him entitled to by reason of the premises, which sum, if he agree to accept it, shall be paid to him, and shall discharge his claim; but if he refuses to accept to [it], he shall pay all costs incurred subsequent to such offer, unless a larger sum be awarded to him by the commissioners than the sum so offered. Costs for which the claimant may become liable as aforesaid, may be recovered of him by action in the name of the state. The board shall cause the decision of the commissioners to be recorded in a book to be provided by them for that purpose, and such decision shall bar the claimant from again preferring the same claim against the state. If one of the commissioners fail to serve, the other two may appoint a suitable person to fill the vacancy; if more than one so fail, the vacancies shall be filled by appointments by the governor: provided, however, that when from the circumstances of the case it shall be apparent that such overflow and consequent injury, will be of frequent occurrence, it shall be the duty of the board, or member having the division in charge, to proceed under this act to appropriate for the use of such canal, slackwater, pool, or reservoir, an easement in the property affected, and acquire the right to overflow such lands to the extent to which they are liable to overflow by the works as constructed at the time of such appropriations, and the compensation awarded to the owner shall be in full for such easement, and shall bar any claim of the owner of such lands for damages thereto, accruing after the commencement of such proceedings for appropriation, by reason of any overflow and consequent injury resulting from said works as constructed at said time.

Payment of damages.

—of costs.

Record of decision of commissioners.

Duty of board or member as to overflow, &c.

Payments to be out of appropriations.

SEC. 14. All payments required or authorized by this act, to be made by the board, or either of their members, shall be made out of the moneys appropriated for the purpose by the general assembly.

Letting contracts.

SEC. 15. That in all cases in which it may be necessary for the said board of public works, by themselves or legally authorized agents, to let contracts for the performance of labor, or the furnishing of materials, for the construction of

feeders, dykes, reservoirs, locks, dams, and other works and devices for perfecting and keeping in repair the public works under their charge, it shall be the duty of the proper member of said board, in his own name, or by the resident engineer having charge of the division of the public works upon which said labor is to be performed, or materials furnished, to cause such general notice of the letting of said contracts by publication in newspapers, and posting up advertisements, as will secure a fair and general competition; which said notice shall contain a statement of the time, place and manner of receiving proposals for said contracts, and the character and magnitude of the work to be performed, the materials to be furnished, or both, if required, for the construction of the proposed work; and no proposal for any such contract shall be considered by the board in which any superintendent, engineer or any employee upon the public works of the state shall be interested, nor shall they consider any proposal that does not contain the full name of each and every person interested in such proposal; and the board may require the party or parties to whom any contract may be awarded, to give security for the faithful performance thereof; provided, however, that in cases of public exigency, as hereinbefore defined, such contracts may be made without such previous notice.

Notice thereof.

What proposals shall not be considered.

Security from contractor.

When previous notice dispensed with.

Members of board authorized to administer oaths.

SEC. 16. Where the determination of any matter is or may be devolved by law upon the board, or either of their members, and the examination of witnesses shall be necessary, or proper, to enable them or him to determine the same, and in all cases in which affidavits are, or may be, required by law to be filed in the office of the board, or delivered to a member thereof, or to be filed by the board, or a member thereof, in any other office, the oath or affirmation to the witness or affiant may be administered by either of the members of the board.

Meaning of words and terms used in this act.

SEC. 17. To give effect to the true intent of this act, any word herein importing one gender may be construed to include persons or things, of any other gender; any word importing the singular number may be extended to and applied to several persons or things; any word importing the plural number may be deemed also applicable to a single person or thing. The word "board," when used in this act, means the board of public works, and the term "proper member of the board," or an equivalent expression, means the member of said board of public works, having, or who may have, under his especial charge or supervision, the division of the public works for which an appropriation of property or rights may be made or attempted to be made, or for an injury occasioned by a defect or mismanagement of which, as aforesaid, a claim to damages may be made.

Repealing section.

SEC. 18. The act entitled "an act to amend an act entitled an act to abolish the board of canal commissioners,

and to revive the board of public works, and the several acts supplemental and amendatory thereto, and for the better regulation of those having in charge the public works of this state," passed March 6, 1845, and the act entitled "an act to amend the act entitled 'an act to provide for the internal improvement of the state of Ohio, by navigable canals,'" passed February 13, 1832; and the act entitled "an act further to amend the act entitled 'an act to provide for the internal improvement of the state of Ohio, by navigable canals,'" passed February 27, 1849; and sections fifteen, sixteen, seventeen, eighteen, nineteen, twenty and twenty-one, of the act entitled "an act for the regulation of the public works of the state of Ohio," passed April 12, 1858, are hereby repealed; provided, however, that the repeal of said acts shall in no manner affect any act done, or right that has accrued under, or in pursuance of them, or of either of them; and all pending proceedings under said acts, or either of them, may be completed as though this act had not been passed, or such pending proceedings may, in future, so far as may be practicable, be carried on in conformity to the provisions of this act. This act shall take effect from its passage.

Swan's R. S. 763.
Swan's R. S. 166.
Swan's R. S. 167.
55 Laws, 117, 118, 119.
Curwen's R. S. 1121, 2358.
Curwen's Laws, 747, 182.
Saving clause.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To amend an act entitled an act to provide for the partition of real estate.

Swan's R. S. 593.
Curwen's R. S. 223.
Curwen's Laws, 387.
When successor &c. of sheriff may make deed for lands sold or elected &c under present or prior laws.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section one of the act entitled an act to explain the act to provide for the partition of real estate, passed January 23, 1836, be so amended as to read as follows: Sec. 1. That it is hereby declared to be the meaning and intent of the act providing for the partition of real estate, passed February 17, 1831, that in all cases where a sale of lands or tenements may have been made by virtue of, and proceeding for, the partition of real estate under the present or any former laws on that subject, and a conveyance of the lands so sold or elected to be taken, shall not have been made by the officer making such sale, the court, before which such proceeding may have been had, may, on motion, order the sheriff of the county, or any officer who may be then executing the duties of sheriff, to execute and

deliver to the purchaser, or any person or persons electing to take the same, a deed for the lands so sold or elected to be taken—the court being first satisfied that such sale or election was regularly made, and that the purchase money has been fully paid or secured.

SEC. 2. That section one of the act to which this is an amendment, be and the same is hereby repealed; this act to take effect and be in force from and after its passage: provided, that such repeal shall in no wise affect any rights or liabilities under such section so repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To prevent the recovery of damages on protested bills of exchange, and to repeal section one of an act entitled "an act ascertaining damages on protested bills of exchange," passed February 15, 1831.

Swan's R. S. 576.
Curwen's R. S. 2490.
Curwen's Laws, 314.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That damages on protested bills of exchange, drawn by any person or body corporate within this state, shall not be recoverable on any contract entered into after the passage of this act.

Damages on protested bills of exchange not recoverable on future contracts.

SEC. 2. That nothing in the second section of the act aforesaid shall be so construed as to permit the recovery of damages on protested bills of exchange drawn within this state after the passage of this act.

Section of prior act construed.

SEC. 3. That the first section of the act entitled "an act ascertaining damages on protested bills of exchange," passed February 15, 1831, be and the same is hereby repealed.

Repealing section.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To provide for the payment of the expenses of re-appraising real estate for the year 1859.

Special tax authorized.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of any county in this state may, and they are hereby authorized, to assess a tax not exceeding one-fifth of one mill on the dollar, of real and personal property, moneys and credits on the duplicate of the county for the year 1859, the proceeds of which tax shall be applied to the payment of the expenses of the re-appraisal of the real estate of the county for the year aforesaid.

SEC. 2. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Curwen's R. S., 229; Curwen's Laws, 117.

To provide for the sale or lease of estates tail in certain cases.

Courts of common pleas may authorize sale.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be competent for the courts of common pleas of this state, on application of the first donee in tail, or for life, to authorize the sale of entailed estates, and estates for life with remainder over to any other person or persons, when satisfied that the sale would be for the benefit of the applicant, and do no substantial injury to the heirs in tail, or others in succession, reversion, or remainder.

The petition therefor.

SEC. 2. The petition shall contain a description of the estate to be sold, a clear statement of the interest of the petitioner therein, and a copy of the will, deed or other instrument of writing by which the estate is created. All persons in being who may be interested in the estate, or who may, by the terms of the will, deed or other instrument creating the entailment, thereafter become interested therein as heir, reversioner or otherwise, shall be made parties to the petition; and if the names of any persons who ought to be made parties are unknown to the petitioner, or if the residence of any such party is unknown to the petitioner, the fact shall be verified by the affidavit of the petitioner, and the sale may be ordered notwithstanding such names and residences may be unknown. The same notice shall be given to defendants, of the application for the sale, as now is or may hereafter be required in cases of petitions of administrators for authority to sell real estate for the payment of debts.

Parties thereto; those whose names or residences are unknown.

Notice of the application.

SEC. 3. If, upon the hearing of the petition, it shall be made to appear to the court by satisfactory proof, that a sale of the estate would be for the benefit of the first donee in tail, or for life, and do no substantial injury to the heirs in tail, or others in succession, reversion, or remainder, the court shall direct a sale of the estate to be made, and the manner thereof, and shall appoint some suitable person or persons to make the same; and such sale shall vest the estate sold in the purchaser, freed from the entailment or limitation over. Order of sale. Effect of sale.

SEC. 4. All parties in interest may appear voluntarily and consent in writing to such sale, and testamentary guardians, and guardians appointed by the court of probate, may assent in the place of their wards to the sale. Voluntary appearance and consent of parties. Guardians may assent to sale for wards.

SEC. 5. All such sales shall be reported to the court authorizing the same, and if, on examination thereof, it shall appear that such sale has been fairly conducted and made, and that the price obtained is the reasonable value of the estate sold, the court shall confirm the sale and authorize and direct a deed of conveyance of the premises sold, to be made to the purchaser or purchasers on payment of the purchase money, or on securing the payment thereof, in such manner as shall be approved by the court. Report of sale and confirmation thereof. The deed.

SEC. 6. All moneys arising from sales under this act shall, for purposes of descent, succession, reversion, or remainder, have the same character, and be governed by the same principles, as the estate sold, and shall pass, according to the terms of the deed, will, or other instrument creating the estate. Character of proceeds of sale.

SEC. 7. Moneys arising from such sales shall, under the direction and approval of the court, be invested in the certificates of the funded debt of this state, or of the United States, or in bonds secured by mortgage on unincumbered real estate, situated in the proper county, of double the value of the moneys secured thereby, exclusive of buildings and other improvements, and of timber, mines and minerals. The court shall appoint competent trustees to invest the moneys aforesaid, and manage the same, who shall, from time to time, report to the court their proceedings and the condition of the fund; and the court shall require of such trustees security for the faithful discharge of their duty; may, from time to time, require additional security, and may remove such trustees for cause shown, or reasonable apprehension thereof; may accept the resignation of a trustee, and fill vacancies by new appointment. Investment of the same. Trustees therefor.

SEC. 8. The net income accruing from sales authorized by this act, shall be paid to the person or persons who would be entitled to the use or income of the estate were the same unsold; and all taxes, and the expenses of the investment and management of the fund, shall be paid by the person or persons entitled to the income thereof. The net income. Taxes and expenses of investment, etc.

Leasing authorized.

SEC. 9. Upon like proceedings, as hereinbefore authorized, the court may, in their discretion, authorize and direct that such estates be leased for a term of years, renewable or otherwise, as may appear most beneficial, and upon such terms as may appear just and equitable, the rents and profits to be paid to the person or persons who might otherwise be entitled to the use and occupancy of the estate, or the income thereof.

Rents and profits.

SEC. 10. The costs of the petition and sale, or lease, shall be paid by the person or persons entitled to the income aforesaid.

SEC. 11. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To provide for the election of township assessors, and to prescribe their duties.

Election of assessor.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That in each township, town or ward, in this state, forming an election district, there shall be elected, on the first Monday of April annually, by the qualified electors of such township, town or ward forming an election district, one assessor for such township, town or ward, or part of a township not included in any other election district.

Bond and oath.

SEC. 2. Each township assessor shall give bond and take the prescribed oath of office on or before the first Monday after his election, and the township clerk shall notify the county auditor thereof; and if the county auditor shall receive no notice of the qualification of the assessor, in any township, ward or city in his county, on or before the third Monday in April in each year, he shall consider such office vacant; or if there should be a failure to elect by the people, or shall be at any time or from any cause, a vacancy in the office of assessor, or if the assessor of any township or ward, having qualified, shall not have proceeded to the discharge of the duties of his office before the third Monday of April in each year, the county auditor shall forthwith appoint one or more suitable persons, residents of the county, to discharge the duties of assessor in such township or ward, who shall thereupon take the necessary oath of office, give the same bond, perform the same duties, be entitled to the same fees, and subject to the same liabilities as in case of assessor elected by the people.

Vacancy.

The bond.

SEC. 3. Every such assessor, previous to entering upon the duties of his office, shall give bond, with two or more

freehold securities, to the acceptance of the township trustees or proper authorities of any city or incorporated village, payable to the state of Ohio, and conditioned for the faithful and impartial discharge of the duties of his office according to law; and shall take and subscribe an oath of office, which shall be indorsed on such bond, and the bond so indorsed shall be deposited with the township treasurer or town or city treasurer, as the case may be. In case of an appointment by the auditor, the bond may be approved by the auditor or the township trustees or authorities of any city, town or village. The oath.

SEC. 4. Each assessor, as aforesaid, shall, during such year as is now required by law, take an enumeration of all the white male inhabitants above the age of twenty-one years whose usual place of residence shall be in any family in his township, and who are residents of his township, town, or ward, on the day preceding the second Monday of April, and shall make out a list of the names of said inhabitants, and return the same to the clerk of the court of common pleas on or before the third Monday of May of the year wherein such enumeration is taken. Enumeration of inhabitants. When to return list to clerk of common pleas.

SEC. 5. It shall be the duty of each township assessor, at the time of taking lists of property for taxation in each year, to require each person in their several townships to make a statement specifying the number of acres they may have had in wheat, rye, barley, corn, buckwheat, oats and meadow, and the quantity of each produced in each preceding year; and said assessors are hereby required to make a return of the aforesaid statement to the county auditor of their respective counties at the time of returning the lists of property for taxation. Agricultural statistics.

SEC. 6. Each assessor as aforesaid shall make a list and valuation of all taxable property in his township, ward or district, now or hereafter taxable by any law of this state, and discharge all such other duties as shall from time to time be imposed upon him by law. List and valuation of property. Assessor's duties generally.

SEC. 7. Assessors in cities of the first class shall be paid out of the county treasury, two dollars and fifty cents per day, and all other assessors two dollars per day, for the time during which they shall be necessarily engaged in the performance of their duties; each assessor shall make out an account in detail, giving the date of each day in which he shall have been thus engaged, and shall verify the same by his oath, which the county auditor is hereby authorized to administer; and if the auditor shall be satisfied that such account is correct he shall draw his warrant on the county treasurer for the amount thereof; but in no case shall such order be drawn until the assessor shall have filed with the auditor his list of assessments, accurately made out, and added up the statements returned to him, and the books on which the original assessments were entered. His per diem and account. Payment thereof.

Repealing section.

Swan's R. S. 907. Swans R. S. 171. Curwen's R. S. 775, 2521; Curwen's Laws, 642; Curwen's R. S. 2354; Curwen's Laws, 178.

SEC. 8. The act entitled "an act to create the office of township assessor," passed March 20, 1841, and which took effect April 1 and August 1, 1841, and section one of an act regulating the mode of taking the enumeration of the white male inhabitants above the age of twenty-one years, passed January 10, 1827, be and the same are hereby repealed. Provided, that the repeal of the aforesaid acts shall in no wise affect any liabilities or rights accruing under them.

Rights saved.

SEC. 9. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Supplementary to an act providing for the punishment of crimes, passed March 7, 1835.

Curwen's R. S. 181; Curwen's Laws, 361.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person over the age of eighteen years who, under promise of marriage, shall have illicit carnal intercourse with any female of good repute for chastity, under the age of eighteen years, shall be deemed guilty of seduction, and upon conviction, shall be imprisoned in the penitentiary for not less than one, nor more than three years, or be imprisoned in the county jail not exceeding six months, but in such case the evidence of the female must be corroborated to the extent required as to the principal witness in cases of perjury.

Seduction under promise of marriage, &c.

Evidence required.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To amend section one of an act for the confinement of persons under the authority of the United States in the jails of this state, passed December 20, 1806, and to repeal section two of said act

Swan's R. S. 486. Curwen's R. S. 2282; Curwen's Laws, 106.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the first section of an act entitled "an act for the confinement of prisoners under the authority of the United States in the jails of this state," passed December 20, A. D. 1806, be and the same is hereby amended so as to

read as follows: That the sheriff or the keeper of every jail in any county of this state shall be and he is hereby authorized and required to receive all prisoners committed to his custody by the authority of the United States, and to keep them safely until discharged by due course of the laws of the same; and if any sheriff or jailor shall neglect or refuse to perform the services and duties required of him by this act, or shall offend in the premises, he shall be liable to the like penalties, forfeitures and actions as if such prisoner or prisoners had been committed under the authority of this state; provided, that every prisoner who shall be committed for any offense by the authority of the United States, shall be supported at the expense of the same during his or her confinement in said jail, and no greater compensation shall be charged by any sheriff or keeper of any jail for the subsistence of said United States prisoner than is authorized by law to be charged for the subsistence of state prisoners; provided, also, that the commissioners of any county in which said prisoner may be confined, shall be entitled to receive from said United States the sum of fifty cents per month for the use of said jail for every person so committed.

Sheriffs, &c. to receive prisoners committed by United States authority.

Penalties for neglect of duty.

Prisoners to be supported at expense of U. States.

Sheriff's compensation.

Compensation to county for use of jail.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Providing for the relief of the surviving lessees of the national road, and the future management of said road.

WHEREAS, Samuel Doyle and Samuel Foster, who are now solely interested as lessees of the national road, under the lease thereof made by the board of public works, on the 29th day of May, 1854, for the period of ten years from and after the first day of June, 1854, to the said Doyle and Foster and Joseph Cooper, having by their memorial petitioned to be discharged from their covenants in said lease contained, and to be allowed to surrender said road to the state on equitable terms, or that the general assembly shall by enactment carry out the modification of said lease as made by the board of public works on the 15th day of February, A. D. 1856, and protect the interests of the lessees in the collection of tolls; and, whereas, the relief asked for by said Doyle and Foster having been petitioned for by numerous citizens of the state, living near and interested in said road, it appears to the general assembly just and proper that some relief should be granted to said lessees; therefore,

Preamble.

When board of public works to take charge of road, and when lessees released.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That on and after the first day of June, 1859, the board of public works shall take charge of, control and keep in repair the national road, passing through the state of Ohio, and the lessees of said road are hereby released from all obligation in that behalf from and after the said first day of June, 1859; provided. that the care and control of the said road, as above directed, shall be taken by the board of public works only upon condition that the said road be in like good condition as when received by the said lessees, and on taking the care and control of said road as aforesaid, said board of public works shall forthwith select one person, the said lessees one, and they two a third, who shall proceed at once to examine, appraise, and report upon oath to the board of public works, the value of the metals provided by said lessees for repairs then on said road in excess of the metal received by said lessees when they took charge of the road under their lease, and in the settlement of the account between said lessees and the state, the board of public works shall allow to lessees the appraised value of said excess of metal, and shall further allow to them an amount equal to the tolls which they would have been entitled to receive on coaches and other vehicles carrying the mail on said road, but for the exemption of such coaches and vehicles from the payment of tolls under the compact between the state of Ohio and the United States, said amount to be ascertained by the board of public works, and for any balance which shall be found due to said lessees, after deducting the amount due from them to the state under said contract or lease, the said board of public works shall draw their draft upon the auditor of state in favor of said lessees, and the same shall be paid on the warrant of said auditor, and [out] of any money in the treasury for general revenue purposes, not otherwise appropriated.

Proviso as to condition of road.

Appraisement and account of metals.

Settlement between the lessees and the state.

Payment of balance to lessees.

Release of lessees and securities, and cancellation of lease and bonds.

SEC. 2. That on such settlement being made, and the balance, if any, due the state from said lessees being paid, it shall be the duty of said board of public works to release the said lessees and their securities from all further obligation upon said lease, and upon the bond or bonds given by them to secure the performance of the same, and said lease and bond or bonds shall be cancelled, and said board of public works are hereby further authorized and required thereupon to release all mortgages given by said lessees and their securities, to secure the performance of said contract.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Supplementary to the act to provide for the organization of cities and incorporated villages, passed May 3, 1852.

Curwen's R. S., 1835; Curwen's Laws, 1072.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the municipal authorities of all incorporated villages and cities of the second class, shall have power to require each able bodied male person between the ages of twenty-one years and fifty-five years, resident within such village or city, and within any contiguous territory that shall be attached thereto for the purposes of this act as hereinafter provided, to perform, in each and every year, two days' labor upon the streets and alleys of such corporation, and upon the public roads or highways or parts thereof that lie within the contiguous territory so to be attached as aforesaid, and which shall be in lieu of the two days' labor required under the present laws regulating roads and highways; and upon refusal to perform such work, under proper supervisor, the delinquent shall be liable to the same penalties as are provided by law against persons refusing to perform the two days' labor required in said law, and the same shall be recovered in the name of the proper supervisor, before the mayor of such village or city. The said municipal authorities shall also have the exclusive right to form road districts within the corporate limits of such cities and villages, and contiguous territory so to be attached thereto as aforesaid, and to appoint suitable supervisors for the term of one year for such districts, who shall be governed in the performance of their duties by the by-laws and ordinances of said corporation, and all road tax charged on the county duplicate on property within the limits of such corporation or territory so to be attached thereto as aforesaid, may be worked out at such rate per day as shall be authorized by law for working other road tax, under the direction of the proper supervisor, within the district where the same is assessed, or applied to such other district or public improvement as the municipal authorities may direct: provided that no tax assessed upon property within the territory to be attached to any such corporation as aforesaid, shall be applied otherwise than within the territory in which the same is assessed; should any extra labor be performed in any one year, under the direction of such supervisor, he shall give his certificate of the amount to the person performing the same, which certificate shall be transferable, and received in discharge of road tax in any succeeding year, to the extent of the amount of such certificate, and all taxes charged for road purposes, as aforesaid, on the property within the limits of such corporation, or the territory so to be attached thereto, as aforesaid, and collected by the county treasurer, shall be paid over to the corporation treasurer, to be specially appropriated by the municipal authorities to

Who may be required by villages and cities of second class to work two days each year on streets, &c.

—In lieu of work on roads and highways.

Penalty for refusal to work.

Formation of road districts, &c., and appointment of supervisors.

Road tax.

Application of tax assessed on property in territory attached to corporation.

Extra labor.

Such road tax collected by county treasurer to be paid over to corporation treasurer, &c.

street and road purposes, or other public improvements, within the corporate limits thereof.

Annexation of territory to said corporations.

SEC. 2 It shall be the duty of municipal authorities of said corporations, and the trustees of townships respectively in which any such corporation shall be situated, as soon after the passage of this act as practicable, and when from the sparseness of population, the public interest shall require it, to attach any territory lying contiguous to such corporations thereto, for the purposes of this act.

SEC. 3. This act to be in force and take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Curwen's R. S., 1069, 1609; Curwen's Laws, 857, 998.

To provide more effectually for the safe keeping of the securities deposited by banks, and for the redemption of their notes.

Certificates of funded debt—their deposit with state treasurer, transfer, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the certificates of the funded debt of this state and of the United States, required to be deposited with and transferred to the treasurer of state as security for the redemption of the circulating notes of independent banking companies, agreeably to the provisions of the act to incorporate the state bank of Ohio and other banking companies, passed February 24, 1845; and the certificates of the funded debt of this state, of the United States, and of other states, required to be transferred to the auditor of state as security for the redemption of the circulating notes of banking companies, agreeably to the provisions of the act to authorize free banking, passed March 21, 1851, and of the act supplementary to the last mentioned act, passed April 11, 1856, shall hereafter be deposited with the treasurer of state, and be carefully preserved by him in the state treasury; and all of such certificates as shall have heretofore been transferred to the auditor of state shall be by him deposited with the treasurer of state, and be carefully preserved by him in the state treasury. All such certificates, so deposited, as shall be transferrable at any agency or office of this state, of the United States, or of any other state, shall be transferred and made payable to "the treasurer of the state of Ohio, and the comptroller of the treasury of the state of Ohio, for the use of" (naming the particular banking company owning or depositing the same;) and such certificates so deposited, and that have heretofore been

deposited, shall be subject to sale and transfer upon the written authority of the treasurer of state, the comptroller of the treasury, and of the president or cashier of the particular banking company owning or depositing the same, and not otherwise, except as hereinafter provided; and all of such certificates so deposited, as shall be payable to any person or persons, corporation or banking company or order, or assigns, or bearer, or as shall be transferable by delivery, shall, by special indorsement thereon, be assigned to the treasurer and comptroller for the use of the banking company owning or depositing the same, in manner aforesaid; and such certificates as shall be so assigned and deposited, and such as have heretofore been deposited, shall be transferable by indorsement of the treasurer and comptroller, by special indorsement, to the banking company owning or depositing the same, or to such person or persons, company or corporation, as the president or cashier of the proper banking company shall authorize in writing, and not otherwise, except as hereinafter provided; but no such transfer or assignment shall be made, unless the banking company owning or depositing such certificates, shall be entitled thereto, agreeably to the provisions of the act under which the banking company shall have been organized.

Accounts thereof to be kept by treasurer and comptroller,

SEC. 2. It shall be the duty of the treasurer of state, and of the comptroller of the treasury, forthwith to make, and thereafter to keep in their respective departments, accurate accounts of all certificates of debt so deposited as aforesaid, and of all certificates hereafter deposited as security for the redemption of circulating notes of banking companies; and the treasurer shall forthwith inform the register of the bank department of the certificates that have heretofore been, and that may hereafter be deposited; and it shall be the duty of the register to keep accurate accounts thereof; and such accounts, as also all other accounts pertaining to banking companies, shall, at all reasonable times, be open to the inspection and examination of any officer or agent of any of said banking companies; of the governor, auditor of state, treasurer, comptroller, and attorney general, or either of them, or any commissioner appointed by the governor for that purpose, and of any committee of the general assembly, or either branch thereof, thereunto authorized by resolution.

—and by register of bank department.

Accounts open to inspection.

Engraving plates and printing notes—duties of comptroller and treasurer.

SEC. 3. Whenever any banking company shall desire to have any plate or plates for circulating notes engraved, or any blank circulating notes printed, and shall notify the comptroller thereof in writing, the comptroller shall issue an order to the treasurer of state to cause the same to be engraved or printed, specifying particularly in the order the denomination or denominations of the plate or plates to be engraved; or the several denominations of the blank notes to be printed, with the amount of each denomination; and the treasurer of state shall strictly observe such order in

causing such engraving and printing to be done; and upon the delivery to the treasurer of any blank printed circulating notes, the treasurer shall notify the comptroller and register thereof, and they, in the presence of the treasurer, shall carefully examine the same, and make an account thereof in their respective departments.

Registered notes—delivery thereof to banks, &c.

SEC. 4. When a banking company shall be entitled to receive any registered notes, the comptroller of the treasury shall, on the written application of the proper officers of the bank, issue an order on the treasurer of state therefor, and deliver the same to the register, specifying in such order the amount of each denomination of unregistered notes, to be delivered to the register; and on the presentation of such order, and ascertaining from the accounts in his office that the banking company is entitled to the same, the treasurer of state shall deliver the notes specified in such order to the register, who shall forthwith register and deliver the same to the agent of the banking company, and make an account thereof; but such notes shall not be registered or delivered unless it shall appear from the accounts in the register's office that the bank is entitled thereto.

Burning of returned circulating notes.

SEC. 5. Whenever a banking company shall return any of its circulating notes to be burnt, the same shall be burned to ashes by the treasurer of state, in the presence of the comptroller of the treasury and the agent of the bank, and four certificates thereof be made and signed by the treasurer, comptroller and agent of the bank, specifying the amount of each denomination of notes so burned to ashes; one copy of which certificate shall be delivered to the agent of the bank, and one each to the treasurer, comptroller and register.

The register—his accounts of certificates of funded debt and of circulating notes delivered to banks and returned to be burned.

SEC. 6. The auditor of state shall appoint some suitable person as a clerk in his office, who shall be styled the register, and be under the supervision and control of the auditor. The register shall, without delay, make and keep in his office accurate accounts of all certificates of debt now deposited, and that may hereafter be deposited with the treasurer as security for the redemption of circulating notes of banking companies; he shall also make and keep an account of the amount of each denomination of the notes of each banking company, delivered to such bank, and of the amount returned and burned, so as to show the balance of notes chargeable to such bank; and he shall also keep accurate accounts of all notes hereafter registered and delivered to each bank, and notes returned to be burnt, so as at all times to exhibit the true amount of each denomination of registered notes delivered to each banking company, and the amount thereof returned.

The sale of certificates of funded debt to redeem notes of failing bank.

SEC. 7. Whenever it shall be necessary to sell any of the certificates of funded debt so deposited as aforesaid, for the redemption of the notes of a failing bank, the auditor, treasurer and comptroller shall make an order on the treas-

urer to sell such certificate and certificates, and at such time and times, place and places, as may be necessary to redeem the outstanding circulating notes of such bank, as the same may be presented for redemption, and produce the largest sum that may be obtained for such certificates; and when it shall have been determined to make such sale, the comptroller shall issue an order to the treasurer specifying what certificates shall be sold, and the time and times, place and places of selling the same; and in making such sale the treasurer shall be governed by the provisions of the act under which such bank shall have been organized, except as provided by this act. When any such sale shall be made, the treasurer shall forthwith report the same and the amount of money thence arising, to the comptroller and the auditor, who shall cause an account thereof to be made in their respective departments, and the treasurer shall be charged with the money as a redemption fund, and all payments made by the treasurer for the redemption of the notes of a bank, shall be upon the warrant of the auditor, as in other cases; all notes, presented for redemption at the treasury, shall be burned to ashes by the treasurer in the presence of the comptroller and register, and certificates of such burning, signed by the treasurer, comptroller and register, shall be made, and account thereof kept, as in other cases.

Report of sale and proceeds—accounts thereof.

Payments for redemption of notes—how made.

Burning redeemed notes.

Sec. 8. If any banking company shall fail to transfer, and keep deposited with the treasurer of state the amount of securities for the redemption of circulating notes, required to be deposited by the act under which such banking company shall have been organized; or shall fail to make the quarterly returns of the condition of the bank, or to keep on hand the amount of coin and its equivalent, required by the act aforesaid; or if any other violation of any of the provisions of the act under which such banking company may be organized shall come to his knowledge, the auditor of state shall forthwith notify the attorney general thereof; and the attorney general shall thereupon, and also for any such violations that may otherwise come to his knowledge, proceed by quo warranto in the proper court, against such banking company, as for a forfeiture of the corporate franchises thereof.

Proceedings on quo warranto against banks.

Sec. 9. If the auditor of state, treasurer of state, or comptroller of the treasury, or any clerk in either of their offices, shall knowingly and purposely, and with intent thereby to cheat or defraud any person or persons, or body corporate, use or otherwise dispose of any of the securities deposited by any banking company as aforesaid, or any of the circulating notes of any banking company, whether the same be registered or unregistered, and which may have come into his possession or under his control for any of the purposes named in this act, or in the several acts mentioned in the first section of this act, he shall be deemed and held guilty of embezzlement, and prosecuted by indictment in

Fraudulent use or disposition of securities punished as embezzlement.

Prosecution,&c. any court having jurisdiction of the offense, and upon conviction thereof shall suffer the same punishment or penalty as is or may be provided by law for the punishment of persons guilty of the embezzlement of the proper securities and moneys of the state; and in all prosecutions for embezzlement under the provisions of this act, the securities and the notes aforesaid, whether registered or unregistered, shall be deemed and held to be of the value denominated on the face thereof.

55 Laws, 94, 95. SEC. 10. Sections seven, eight and nine of the act entitled "an act to further provide for the better regulation, and receipt, disbursement, and safe keeping of the public revenue," passed April 12, 1858, are hereby repealed: provided that the repeal thereof shall not affect the existing rights or liabilities, civil or criminal, of any person or persons, arising under the sections so repealed.

SEC. 11. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To amend sections six (6), fifteen (15), twenty-five (25), and twenty-seven (27), of the act entitled "an act to further provide for the better regulation of the receipt, disbursement and safe keeping of the public revenue," passed April 12, 1858.

55 Laws, 94.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section six of the act entitled "an act further to provide for the better regulation of the receipt, disbursement and safe keeping of the public revenue," passed April 12, 1858, be so amended as to read as follows:

Payment, cancellation and numbering of warrants on the treasury. Sec. 6. The treasurer of state shall, on presentation, pay all warrants drawn on the treasury by the auditor of state, duly certified and countersigned by the comptroller, when there are funds in the treasury belonging to the particular fund on which the said warrant is drawn, in the manner prescribed in section thirteen of the "act to establish the independent treasury of the state of Ohio," passed April 12, 1858; and on payment of the same, he shall take the receipt of the person presenting the said warrant and entitled to receive such payment, on the face of such warrant, and in full for the amount specified therein; and the treasurer shall write on the face thereof the word "paid," which warrant, when so paid and cancelled, shall be numbered in the order in which it is paid, and he shall record the same

in an appropriate book kept for that purpose, and file the same in his office, as his voucher for so much money paid out, and shall credit himself with the amount of the warrant paid, in his account against the particular fund appropriated, and for which he has charged himself, as herein provided, so as to keep an exact debit and credit account of each particular fund in his office.

Record of warrants and filing same.

Account of each fund.

SEC. 2. That section fifteen (15) of the aforesaid act be so amended as to read as follows: Sec. 15. It is hereby made the duty of the auditor and treasurer of each and every county in this state, conjointly to make out and cause to be published in at least one newspaper of general circulation in the county in and for which they are such auditor and treasurer, a statement of the exact amount of money existing in the treasury of such county at the close of the last business day in each of the months of February and August in every year, and oftener if the commissioners of the county shall so direct; particularly specifying in such statement the amount belonging to each particular fund, together with all other property, bonds, securities, claims, assets and effects, belonging to the county, in the custody or under the control of such treasurer. Such statement shall be signed by said county treasurer and said county auditor; and the expense of such publication shall be paid out of the county treasury on warrant or warrants drawn by the county auditor, particularly specifying the same; and if at any time it shall be found that such statement was untrue or false in regard to the amount of money and other property then on hand and in the treasury, the said treasurer and the said auditor making the same, shall, without regard to lapse of time, be held to be guilty of a breach of trust and high misdemeanor, and on trial by indictment, and conviction thereof, before any court of competent jurisdiction, shall be sentenced by the court before which such trial and conviction shall be had, to the same punishment as is provided in and by the act hereby amended, or by the "act to establish the independent treasury of the state of Ohio," passed April 12, 1858, or by law for the punishment of embezzlement.

Publication of statement of amount in county treasury.

What statement to contain.

Expense, how paid.

Penalty for making false statements.

SEC. 3. That section twenty-five (25) of the aforesaid act be so amended as to read as follows: Sec. 25. All costs and expenses of the safe keeping and disbursement according to the requirements of the act hereby amended, and of the act to establish the independent treasury of the state of Ohio, of the public money belonging to the several counties or townships, shall be paid by the treasurer of the proper county, under the supervision of the county commissioners and county auditor of such county, by the warrant of the said auditor, drawn on the treasury, and certified by said commissioners as to the object for which it was drawn. And any failure, or neglect, or refusal on the part of any county treasurer to provide specie for the payments of specie out

Expenses of keeping and disbursing money of counties or townships, how paid.

Specie payments—penalty for failure, neglect or refusal by county treasurers.

of his treasury without unnecessary inconvenience or trouble or individual loss or expense to the tax payers in the manner prescribed in and by the fourteenth (14) section of the act entitled "an act to establish the independent treasury of the state of Ohio," passed April 12, 1858, shall be deemed and held in law to be a misdemeanor, and on his trial and conviction thereof, by indictment before any court having competent jurisdiction, he shall be sentenced for each such offense to pay a fine of not less than twenty dollars nor more than five hundred dollars. And each county treasurer shall make a settlement with the county commissioners and county auditor of his county semi-annually, as provided by law; and he shall be allowed for his services, two and one-half per centum on all moneys by him received, and two and one-half per centum on all moneys by him paid out during the preceding half year, where each sum so received or so paid out shall not exceed fifty dollars; and on all sums, so received or so paid out, exceeding fifty dollars and not exceeding one hundred dollars each, one and one-half per centum; and on all sums, so received or paid out exceeding one hundred dollars and not exceeding two hundred dollars each, one per centum; and on all sums, so received or paid out, exceeding two hundred dollars and not exceeding five hundred dollars each, one-half of one per centum; and on all sums, so received or paid out, exceeding five hundred dollars each, one-quarter of one per centum for receiving into, and one-quarter of one per centum for paying out of the treasury as aforesaid, hereby expressly excepting that which may be collected on the tax duplicate, and that collected for taxes on delinquent or forfeited lands, by sale of such lands or otherwise; and excepting also that on which some other rate of compensation is fixed by law. And said treasurer shall be credited with the sum by him paid for printing such advertisements as he is required to publish in some newspaper, and with the sum by him paid for blank books and stationery necessarily used in his office; provided, that no per centage shall be allowed to the treasurer on any money by him received from his predecessor in office, or from the legal representatives of such predecessor.

County treasurer's semi-annual settlements

His per centum.

To be credited with certain expenses.

Proviso as to money received from predecessor, &c.

Sec. 4. That section twenty-seven (27) of the aforesaid act be so amended as to read as follows: Sec. 27. The county commissioners of each county in this state, are hereby required to provide, as soon as practicable after the passage of this act, all such rooms or offices, and construct such fire and burglar proof vault, or provide such fire and burglar proof safe, and other means of security, in the office of the county treasurer in the public buildings of each county, as may be needed by the county treasurer for the perfect protection and safe keeping of the public money therein. And if any county commissioner or county commissioners of any county in this state shall fail, or neglect, or refuse to provide and furnish the county treasurer of their county, such fire proof

County commissioners to provide offices and vaults or safes.

Failure, neglect or refusal so to do to be punished,

and burglar proof safe or vault, for the safe keeping of the public money therein, as the said treasurer shall require or demand in writing, any such commissioner or commissioners so failing, neglecting, or refusing to provide the same, shall be held in law as guilty of a high misdemeanor, and on trial and conviction thereof, before any court having competent jurisdiction, shall be severally fined, for the use of the county, by the court before which such trial and conviction is had, in any sum not exceeding one thousand dollars, nor less than one hundred dollars, with costs of prosecution, at the discretion of the said court, for each such offense; and the said county commissioner or commissioners, so failing, or neglecting, or refusing to furnish the same, shall moreover be held liable on his or their official bond, and also in his or their private capacity, to pay for the use of the county, for all amounts of money or property that may be stolen, robbed, or unlawfully taken from such county treasury during the time between the period when such requisition or demand shall have been made by any such treasurer, and the time when such vault, safe, and other means of security, may be furnished to such treasurer by such commissioner or commissioners.

—and liable in private capacity, &c.

SEC. 5. That the original sections six (6), fifteen (15), twenty-five (25), and twenty-seven (27), of the act hereby amended, and section thirty-one (31), of the act entitled an act prescribing the duties of county treasurers, passed March 12, 1831, and took effect June 1, 1831, be and the same are hereby repealed; provided, that the repeal of the said sections of said acts shall not affect any rights acquired under them or either of them, or affect any liability, civil or criminal, growing out of, or arising under said sections of said acts, or either of them, or the prosecution of them to final judgment, agreeably to the law heretofore existing.

Sections repealed.

Swan's R S., 1009. Curwen's R. S., 2418; Curwen's Laws, 242.

Rights and liabilities saved.

SEC. 6. This act shall take effect and be in force on and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To amend the tenth section of an act defining the jurisdiction, and regulating the practice of probate courts, passed March 14, 1853; took effect July 1, 1853.

Swan's R. S., 748; Curwen's R S., 2043; Curwen's Laws, 1269.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the tenth section of said act be so amended to read as follows: Sec. 10. The judges of said

Custody of files, &c.

And judge may act as clerk or appoint deputy.

courts shall have the care and custody of all files, papers, books and records, belonging to the probate office, and are hereby authorized and empowered to perform the duties of clerks of their own courts. Every probate judge shall have power to appoint a deputy clerk or clerks, each of whom shall, previously to entering upon the duties of his appointment, take an oath or affirmation, faithfully to perform all his duties as deputy clerk; and when so qualified, said deputy may do and perform any and all the duties appertaining to the office of clerk of said court; and every deputy clerk is hereby authorized to administer oaths in all cases in which it is necessary, in the discharge of his duties as such deputy clerk. Every probate judge may take such security from his deputy, as he may deem necessary to secure the faithful performance of the duties of his appointment: provided, that no such clerk shall, while holding such office, practice as an attorney in any of the courts of this state.

Repealing section.

SEC. 2. That the said original tenth section be and the same is hereby repealed. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To establish a uniform standard of weights and measures.

Articles specified and standard fixed, where there is no special agreement.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, Whenever the following articles are sold, and no special agreement as to measure is made by the contracting parties, the bushel shall consist of the following weights: clover seed, 60 pounds; timothy seed, 45 pounds; hemp seed, 44 pounds; millet seed, 50 pounds; buckwheat, 50 pounds; beans, 60 pounds; peas, 60 pounds; hominy, 60 pounds; Irish potatoes, 60 pounds; sweet potatoes, 50 pounds; dried peaches, 33 pounds; dried apples, 25 pounds; wheat, 60 pounds; shelled corn, 56 pounds; corn in the ear, 70 pounds; rye, 56 pounds; flax seed, 56 pounds; barley, 48 pounds; oats, 32 pounds; malt, 34 pounds; Hungarian grass seed, 50 pounds.

Swan's R. S., 1020, 1023; Curwen's R. S., 1233, 1447; Curwen's Laws, 790, 864.

SEC. 2. The act providing for a uniform standard of weights and measures, passed February 21, 1846, also the act establishing the weight of clover seed, passed February 25, 1848, are hereby repealed.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Making additional appropriations for the year 1859.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums, in addition to former appropriations, be and the same are hereby appropriated out of any money in the state treasury for general revenue purposes, to be paid on the warrant of the auditor of state, according to law, for the year one thousand eight hundred and fifty-nine: For the payment of the lieutenant-governor, members of the general assembly, their clerks, assistant clerks, sergeants-at-arms, their assistants, and messenger boys, two thousand dollars. For the payment of the Ohio Statesman and State Journal, for printing reports of the proceedings of the general assembly, twenty dollars.

Officers and members of general assembly.

Ohio Statesman and State Journal.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Further to prevent the taking of usurious interest on the part of banks, and to prevent confession of judgments on warrants of attorney in favor of banks.

Curwen's R. S., 1524; Curwen's Laws, 891.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever usurious interest shall have been charged or taken in this state by any bank, whether incorporated by the laws of this state or elsewhere, it shall be lawful for any party or parties to an action brought upon any bond, bill, note or other instrument of writing in which such usurious interest shall have been charged or included, at any time before or after judgment to set up and prove the

Usury may be set up before or after judgment without tender of amount legally due.

taking or demand of such usurious interest, without tendering to such bank the legal amount of debt and interest due on such obligation.

Setting aside judgments heretofore rendered and permitting usury to be set up in defen e.

SEC. 2. That in all cases in which judgment shall have been heretofore rendered in favor of such bank or banks upon default, or upon a warrant of attorney to confess judgment, it shall be the duty of the court in which such judgment was rendered, at any time before such judgment shall have been satisfied, upon affidavit of any defendant against whom such judgment was rendered, setting forth the facts constituting such usurious demand, to set aside such judgment, and permit such defendant or defendants to file his or their answer in said action, setting up such usurious demand, without tendering to such bank the legal amount of debt and interest due on the bond, bill, note or other obligation upon which said action was founded.

Judgments hereafter confessed in favor of banks, &c., on warrant of attorney, void. Curwen's R. S., 1997, § 380; Curwen's Laws, 12:3

SEC. 3. That all judgments by confession hereafter rendered in favor of banks, or in favor of officers or agents of banks, on warrants of attorney, shall be absolutely null and void.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Making appropriations for the payment of interest on the state debt, the payment of a portion of the principal thereof, and the payment of the expenses of the board of commissioners of the sinking fund.

Appropriation for;

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums be, and they hereby are, appropriated from any moneys in the treasury belonging to the sinking fund:

—interest on state debt;

For the payment of the semi-annual interest to come due on the foreign funded debt of the state on the first day of July, 1859, and the first day of January, 1860, and the semi-annual interest on the domestic debt of the state to come due on the first day of May and the first day of November, 1859, the sum of eight hundred sixty-four thousand five hundred eighty-four and 50-100 dollars, ($864,584.50);

—interest on school and trust funds;

For the payment of interest on school and trust funds held by the state, the sum of one hundred fifty six thousand dollars, ($156,000);

—principal of state debt;

For the payment of a portion of the funded debt of the state, being the amount of the sinking fund, as established and fixed by the constitution applicable thereto for the year

1859, the sum of one hundred fifty thousand, three hundred sixty-three dollars, ($150,363);

For the payment of the salary of the agent of the state in the city of New York, and for office rent and necessary incidental expenses thereof, the sum of four thousand dollars, ($4,000); —agency in New York;

For the payment of the salary of the clerk in the office of the commissioners of the sinking fund at the seat of government, and the necessary incidental expenses of said office, the sum of two thousand five hundred dollars, ($2,500); —clerk of fund commissioners, and expenses of office;

For the payment of engraving, printing, stationery, and other expenses, necessary to the discharge of the duties of the commissioners of the sinking fund, the sum of seven thousand dollars, ($7,000); —engraving, printing, stationery, &c.;

For the payment of the expenses of said commissioners in going to, at, and returning from the city of New York, in the discharge of their official duties, the sum of twelve hundred dollars, ($1,200); —expenses of commissioners;

For the contingent fund of said board of commissioners of the sinking fund, the sum of one thousand dollars, ($1,000); —contingent fund;

For the construction of a fire and burglar proof vault in the office of said commissioners in the state house, the sum of twenty-five hundred dollars, ($2,500). —construction of vault.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To amend "an act to provide against the evils resulting from the sale of intoxicating liquors in the state of Ohio," passed May 1, 1854. Swan's R.S. 898.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section five of the act to provide against the evils resulting from the sale of intoxicating liquors in the state of Ohio, passed May 1, 1854, be amended so as to read as follows: Sec. 5. That it shall be unlawful for any person to get intoxicated, and every person found in a state of intoxication, shall upon conviction thereof, be fined in the sum of five dollars, and pay the costs of prosecution. Penalty for drunkenness.

SEC. 2. That section eight of the same act be amended so as to read as follows: Sec. 8. That for every violation of the provisions of the first, second and third sections of this act, every person so offending shall forfeit and pay a fine of not less than five nor more than fifty dollars, or be impris- Penalties, &c., for violations of sections specified.

oned in the jail of the county for not less than ten nor more than thirty days, or both of them, at the discretion of the court, and shall pay the costs of prosecution, and for every violation of the provisions of the fourth section of this act, every person convicted as the keeper of any places therein declared to be nuisances, shall forfeit and pay a fine of not less than fifty nor more than one hundred dollars, or be imprisoned in the jail of the county for not less than twenty nor more than fifty days, or both, at the discretion of the court, and pay the costs of prosecution, and such place or places so kept by such person or persons so convicted, shall be shut up and abated upon the order of the court, before whom such conviction may be had, until such time as such person or persons keeping such place or places, shall give bond and security to the acceptance of said court, in the penal sum of one thousand dollars, payable to the state of Ohio, conditioned that he or they will not sell intoxicating liquors contrary to the laws of the state, and will pay all fines, costs and damages assessed against such keeper or keepers, for every violation thereof, and in case of a forfeiture of such bond, suits may be brought thereon for the use of any person interested, or for the use of the county, in case of a fine or costs due such county; provided, that the provisions of the first and fourth sections of this act shall not extend to the sale of the wine manufactured of the pure juice of the grape cultivated in this state, or beer, ale or cider.

Sections repealed—liabilities saved.

SEC. 3. Section five and eight of the act of which this act is amendatory, are hereby repealed: provided, that such repeal shall in no wise affect any liabilities, civil or criminal, incurred under the said sections so repealed, nor any proceedings under them.

SEC. 4. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Laws.

To amend the second section of an act entitled "an act to constitute the county of Hamilton a separate district for lunatic asylum purposes, and to provide for the erection and government of an asylum therein," passed March 10, 1857.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section two of the above recited act be so amended as to read as follows, to wit: Sec. 2. Immediately upon the passage of this act, or as soon thereafter as may be convenient, there shall be appointed a board of three

directors for the government of said asylum, one of whom shall be appointed in the same manner as are the trustees of the state lunatic asylums, and the remaining two by the county commissioners of Hamilton county. They shall be citizens of the county of Hamilton, and shall hold the office for the term of three years, except as herein provided, and until their successors are appointed and qualified. At the first meeting of the trustees appointed under the provisions of this act, the two trustees appointed by the county commissioners of Hamilton county, shall determine by lot their term of service, so that one of them shall serve for the term of one year, and one for the term of two years, and at the time of the expiration of their respective terms of service, fixed as aforesaid, the county commissioners aforesaid shall appoint one trustee, who shall serve for the term of three years. They shall possess like powers, and receive the same compensation as the trustees of the state lunatic asylums, and shall be subject to the same regulations and restrictions as are provided for the government of the state lunatic asylums, so far as the same may be applicable; said trustees shall have no power to make any changes in the general plan of said asylum, but the county commissioners shall complete the same in accordance with the present plan and specifications, without material alteration.

Board of directors.

Trustees—term of service, &c.

Their powers, &c.

Plan of asylum not to be changed.

SEC. 2. Section two of the act to which this is amendatory be and is hereby repealed. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

For the assessment and taxation of all property in this State, and for levying taxes thereon according to its true value in money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That all property, whether real or personal, in this state, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of persons residing therein; the property of corporations now existing or hereafter created, and the property of all banks or banking companies, now existing or hereafter created, and of all bankers, except such as is hereinafter expressly exempted, shall be subject to taxation; and such property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, or the value thereof, shall be entered on the list of taxable

All property to be listed for taxation.

property, for that purpose, in the manner prescribed by this act.

Definitions.

SEC. 2. The terms "real property" and "land," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out in town lots or otherwise, with all things contained therein, but also all buildings, structures and improvements, and other fixtures of whatsoever kind thereon, and all rights and privileges belonging, or in any wise appertaining thereto. The term "investments in bonds," whenever used in this act, shall be held to mean and include all moneys invested in bonds, of whatsoever kind, whether issued by incorporated or unincorporated companies, towns, cities, townships, counties, states, or other corporations, or by the United States, held by persons residing in this state, whether for themselves or as guardians, trustees or agents. The term "investments in stocks," wherever used in this act, shall be held to mean and include all moneys invested in the public stocks of this or any other state, or of the United States, or in any association, corporation, joint stock company or otherwise, the stock or capital of which is or may be divided into shares, which are transferable by each owner, without the consent of the other partners or stockholders, for the taxation of which no special provision is made by this act, held by persons residing in this state, either for themselves, or as guardians, trustees or agents. The term "oath," wherever used in this act, shall be held to mean oath or affirmation. Every word in this act importing the masculine gender, may extend and be applied to females as well as males. The term "personal property," wherever used in this act, shall be held to mean and include: 1st. Every tangible thing being the subject of ownership, whether animate or inanimate, other than money, and not forming part of any parcel of real property as hereinbefore defined. 2d. The capital stock, undivided profits, and all other means, not forming part of the capital stock of every company, whether incorporated or unincorporated, and every share, portion or interest in such stock, profits or means, by whatsoever name the same may be designated, inclusive of every share or portion, right or interest, either legal or equitable, in and to every ship, vessel or boat, of whatsoever name or description, used or designed to be used either exclusively or partially in navigating any of the waters within or bordering on this state, whether such ship, vessel or boat, shall be within the jurisdiction of this state or elsewhere, and whether the same shall have been enrolled, registered or licensed at any collector's office, or within any collection district in this state or not. The term "money," or "moneys," wherever used in this act, shall be held to mean and include gold and silver coin, and bank notes in actual possession of solvent banks, and every deposit which the person owning, holding in trust or having the beneficial interest therein, is entitled to withdraw in money, on demand.

The term "credits," whenever used in this act, shall be held to mean the excess of the sum of all legal claims and demands, whether for money or other valuable thing, or for labor or service due, or to become due, to the person liable to pay taxes thereon, including deposits in banks or with persons in or out of this state, other than such as are held to be money as hereinbefore defined by this section, when added together, (estimating every such claim or demand at its true value in money,) over and above the sum of legal, bona fide debts owing by such person. But in making up the sum of such debts owing, there shall be taken into account no obligation to any mutual insurance company, nor any unpaid subscription to the capital stock of any joint stock company, nor any subscription for any religious, scientific, literary, or charitable purpose; nor any acknowledgment of any indebtedness unless founded on some consideration actually received and believed at the time of making such acknowledgment to be a full consideration therefor; nor any acknowledgment of debt made for the purpose of diminishing the amount of credits to be listed for taxation; nor any greater amount or portion of any liability as surety, than the person required to make the statement of such credits believes that such surety is in equity bound, and will be compelled to pay, or to contribute, in case there be no securities: provided, that pensions receivable from the United States, or from any of them, salaries or payments expected to be received for labor or services to be performed or rendered, shall not be held to be annuities within the meaning of this act.

Public property, &c., exempt from taxation.

SEC. 3. That all property described in this section to the extent herein limited shall be exempt from taxation, that is to say, 1st. All public shool houses and houses used exclusively for public worship, the books and furniture therein, and the grounds attached to such buildings necessary for the proper occupancy, use and enjoyment of the same, and not leased or otherwise used with a view to profit. All public colleges, public academies, all buildings connected with the same, and all lands connected with public institutions of learning, not used with a view to profit. This provision shall not extend to leasehold estates of real property, held under the authority of any college or university of learning of this state. 2d. All lands used exclusively as grave-yards or grounds for burying the dead, except such as are held by any person or persons, company or corporation, with a view to profit, or for the purpose of speculation in the sale thereof. 3d. All property, whether real or personal, belonging exclusively to this state, or the United States. 4th. All buildings belonging to counties used for holding courts, for jails, or for county offices, with the ground, not exceeding in any county ten acres, on which such buildings are erected. 5th. All lands, houses, and other buildings belonging to any county,

township or town, used exclusively for the accommodation or support of the poor. 6th. All buildings belonging to institutions of purely public charity, together with the land actually occupied by such institutions, not leased or otherwise used, with a view to profit, and all moneys and credits appropriated solely to sustaining, and belonging exclusively to such institutions. 7th. All fire-engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safe keeping thereof, and for the meeting of fire companies, whether belonging to any town, or to any fire company organized therein. 8th. All market-houses, public squares or other public grounds, town or township houses or halls, used exclusively for public purposes, and all works, machinery and fixtures belonging to any town, and used exclusively for conveying water to such town.

Fifty dollars of personal property exempt.

9th. Each individual in this state may hold exempt from taxation personal property of any description of which such individual is the actual owner, not exceeding fifty dollars in value; no person shall be required to list a greater portion of any credits than he believes will be received, or can be collected, nor any greater portion of any obligation given to secure the payment of rent, than the amount of rent that shall have accrued on the lease, and shall remain unpaid at the time of such listing; no person shall be required to include in his statement as a part of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which he is required to list, any share or portion of the capital stock or property of any company or corporation, which is required to list or return its capital and property for taxation in this state. The taxes upon banks, banking companies, and all other joint stock companies, or corporations, of whatever kind, levied and collected, in pursuance of the provisions of this act, shall be in lieu of any taxes which such bank or banking company, or other joint stock company or corporation was, by former laws, required to pay.

Rule for listing, &c.

Banks not to be twice taxed.

BY WHOM, WHERE, AND IN WHAT MANNER PROPERTY SHALL BE LISTED.

Statement of property—who to make it, and how.

SEC. 4. Every person of full age and sound mind, not a married woman, shall list the real property of which he is the owner, situate in the county in which he resides, the personal property of which he is the owner, and all moneys in his possession; and he shall list all moneys invested, loaned or otherwise controlled by him, as agent or attorney, or on account of any other person or persons, company or corporation whatsoever, and all moneys deposited subject to his order, check or draft, and credits due from, or owing by any person or persons, body corporate or politic, whether in or out of such county. The property of every ward shall be listed by his guardian; of every minor child, idiot or lunatic having no other guardian, by his father, if living, if not, by his mother, if living, and if neither father nor mother be liv-

ing, by the person having such property in charge; of every wife by her husband, if of sound mind, if not, by herself; of every person for whose benefit property is held in trust, by the trustee; of every estate of a deceased person, by the executor or administrator; of corporations whose assets are in the hands of receivers, by such receivers; of every company, firm, body politic or corporate, by the president or principal accounting officer, partner or agent thereof. Every person required to list property on behalf of others, by the provisions of this act, shall list it in the same township in which he would be required to list it, if such property were his own; but he shall list it separately from his own, specifying in each case the name of the person, estate, company, or corporation, to whom it belongs; and all real property and merchants' and manufacturers' stock, and all the articles enumerated in the seventh section of this act, and all personal property upon farms and real property not in towns, shall be returned for taxation, and taxed in the township and town in which it is situated; and all other personal property, except such as is taxable for state purposes only, shall be entered for taxation in the township and town in which the person charged with the tax thereon resided, at the time a list thereof was taken by the assessor, if such person reside in the county where such property was listed; and if not, then such property shall be entered for taxation and taxed in the township where situated when listed, anything in this act to the contrary notwithstanding.

Same.

SEC. 5. Property held under a lease for a term exceeding fourteen years, belonging to the state, or to any religious, scientific or benevolent society, or institution, whether incorporated or unincorporated, and school and ministerial lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same, and shall be listed as such by such person or his agent, as in other cases.

The statement—when to be delivered and how verified.

SEC. 6. Each person required by this act to list property, shall make out and deliver to the assessor, when required, or within ten days thereafter, a statement, verified by his oath or affirmation, of all the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, in his possession, or under the control of such person, at the time notice was given him by the assessor, to make out such statement, and which, by the provisions of this act, he is required to list for taxation, either as owner or holder thereof, or as guardian, parent, husband, trustee, executor, administrator, receiver, accounting officer, partner, agent, or factor.

What the statement shall set forth

SEC. 7. Such statement shall truly and distinctly set forth, first, the number of horses, and the value thereof; second, the number of neat cattle, and the value thereof; third, the number of mules and asses, and the value thereof; fourth, the number of sheep and the value thereof; fifth, the number of hogs, and the value thereof; sixth, every pleasure

carriage of whatsoever kind, and the value thereof; seventh, the total value of all other articles of personal property which such person is by this act required to list: provided that if such person shall exhibit to the assessor the animals or other articles of personal property above enumerated, the value of such property so exhibited may be omitted in such statement, andthe assessor shall in such cases determine their value, without requiring the oath of the person making such statement as to the value thereof, and such person shall in that case be required only to make oath or affirmation to the value of the remainder of the personal property which he is required to list; eighth, every gold and silver watch, and the value thereof; ninth, every piano forte, and the value thereof; tenth, the value of the goods and merchandise which such person is required to list as a merchant; eleventh, the value of the property which such person is required to list as a banker, broker or stock-jobber; twelfth, the value of the materials and manufactured articles which such person is required to list as a manufacturer; thirteenth, the value of money and credits required to be listed, including all balances of book accounts; fourteenth, the value of the moneys invested in bonds, stocks, joint stock companies, or otherwise, which such person is by this act required to list.

Oaths in case of no property.

SEC. 8. If there be no articles of personal property, moneys or credits, investments in bonds, stocks, joint stock companies or otherwise, which such person would be, by this act, required to list, on his own account, or account of others, he may set forth such fact to the assessor, who shall require the oath or affirmation of such person to the truth of the same.

RULES FOR VALUING PROPERTY.

Rules for valuing real and personal property, credits, &c.

SEC. 9. Each separate parcel of real property shall be valued at its true value in money, excluding the value of the crops growing thereon; but the price for which such real property would sell at auction, or at a forced sale, shall not be taken as the criterion of such true value. Each tract or lot of real property belonging to this state, or to any county, city, or charitable institution, whether incorporated or unincorporated, and school or ministerial lands held under a lease for a term exceeding five years, shall be valued at such price as the assessor believes could be obtained at private sale for such leasehold estate. Personal property, of every description, shall be valued at the usual selling price of similar property, at the time of listing, and at the place where the same may then be; and if there be no usual selling price known to the person whose duty it shall be to fix a value thereon, then at such price as it is believed could be obtained therefor, in money, at such time and place Investments in bonds, stocks, joint stock companies, or otherwise, shall be valued at the true value thereof, in money. Money, whether in possession or on deposit, shall be entered

in the statement at the full amount thereof; provided, that depreciated bank notes shall be entered at their current value. Every credit for a sum certain, payable either in money, property of any kind, labor or services, shall be valued at the full price of the sum so payable; if for a specific article, or for a specified number or quantity of any article or articles of property, or for a certain amount of labor, or for services of any kind, it shall be valued at the current price of such property, or of such labor or service, at the place where payable. Annuities or moneys receivable at stated periods shall be valued at the price which the person listing the same, believes them to be worth in money. Where the fee of the soil of any tract, parcel or lot of land is in any person or persons, natural or artificial, and the right to any minerals therein, in another or others, the same shall be valued and listed agreeably to such ownership in separate entries, and taxed to the parties owning the same, respectively.

What liabilities are not exempted.

SEC. 10. No person, company, or corporation, shall be entitled to any deduction, on account of any bond, note or obligation of any kind, given to any mutual insurance company; nor on account of any unpaid subscription to any religious, literary, scientific or charitable institution or society; nor on account of any subscription to, or installment payable on the capital stock of any company, whether incorporated or unincorporated.

OF LISTING AND VALUING THE PROPERTY OF MERCHANTS AND MANUFACTURERS, AND OF BANKERS, EXCHANGE BROKERS, AND STOCK JOBBERS, ETC.

Statement by merchants, manufacturers, &c.;

SEC. 11. Every person that shall own, or have in his possession, or subject to his control, any personal property within this State, with authority to sell the same, which shall have been purchased either in or out of this state, with a view to being sold at an advanced price, or profit, or which shall have been consigned to him, from any place out of this state, for the purpose of being sold at any place within this state, shall be held to be a merchant; and, when he shall be by this act required to make out and deliver to the assessor a statement of his other personal property, he shall state the value of such property appertaining to his business as a merchant; and in estimating the value thereof, he shall take as the criterion the average value of all such articles of personal property which he shall have had from time to time in his possession, or under his control, during the year next previous to the time of making such statement, if so long he shall have been engaged in business; and if not, then during such time as he shall have been so engaged; and the average shall be made up by taking the amount in value on hand, as nearly as may be, in each month of the next preceding year in which the person making such state-

ment shall have been engaged in business, adding together such amounts, and dividing the aggregate amount thereof by the number of months that the person making the statement may have been in business during the preceding year;

—By consignee;

provided, that no consignee shall be required to list for taxation the value of any property, the product of this state, which shall have been consigned to him, for sale or otherwise, from any place within the state, nor the value of any property consigned to him from any other place for the sole purpose of being stored or forwarded; provided, he shall, in either case, have no interest in such property, or any profit to be derived from its sale; and the word person, as used in this and the succeeding sections, shall be held to mean and include firm, company and incorporation.

—By manufacturers;

SEC. 12. Every person who shall purchase, receive or hold personal property of any description, for the purpose of adding to the value thereof by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making a gain or profit by so doing, shall be held to be a manufacturer; and he shall, when he is required to make and deliver to the assessor a statement of the amount of his other personal property subject to taxation, also include in his statement the average value estimated, as provided in the preceding section, of all articles purchased, received or otherwise held, for the purpose of being used in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, which from time to time he shall have had on hand during the year next previous to the time of making such statement, if so long he shall have been engaged in such manufacturing business; and if not, then during the time he shall have been so engaged. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list as part of his manufacturer's stock the value of all engines and machinery of every description, used, or designed to be used, in any process of refining or manufacturing (except such fixtures as shall have been considered as part of any parcel or parcels of real property), including all tools and implements of every kind used, or designed to be used, for the aforesaid purpose.

—By merchants commencing business after day preceding the second Monday of April.

SEC. 13. When any person shall commence any business in any county after the day preceding the second Monday of April in any year, the average value of whose personal property employed in such business shall not have been previously entered on the assessor's list for taxation in said county, such person shall report to the auditor of the county the probable average value of the personal property by him intended to be employed in such business until the day preceding the second Monday of April thereafter; and shall pay into the treasury of such county a sum which shall bear such proportion to the levy for all purposes, on the average, so employed, as the time from the day on which he shall commence such business, as aforesaid, to the day preceding

the second Monday of April next succeeding, shall bear to one year. Provided, that if the person so listing his capital, shall present a bona fide receipt to the treasurer of any county in this state, in which such capital had been previously listed and taxed for the amount of the taxes assessed, and by him paid on the same capital for the same year, then and in that case it shall be a receipt from paying taxes again on such capital.

—By bankers, brokers, &c., after same time

SEC. 14. When any person shall commence or engage in the business of dealing in stocks of any description, or in buying or shaving any kind of bills of exchange, checks, drafts, bank notes, promissory notes, or other kind of writing obligatory, as mentioned in the sixty-second section of this act, after the day preceding the second Monday in April, in any year, the average value of whose personal property intended to be employed in such business shall not have been previously entered on the assessor's list for taxation, in said county, such person shall report to the auditor of the county the probable average value of the personal property by him intended to be employed in such business until the day preceding the second Monday in April thereafter, and shall pay into the treasury of such county a sum which shall bear the same proportion to the levy for all purposes, on the average value so employed, as the time from the day on which he shall commence or engage in such business, as aforesaid, to the day preceding the second Monday in April next succeeding shall bear to one year.

Penalty for commencing business without listing, &c.

SEC. 15. If any person shall commence or engage in any business as aforesaid, and shall not, within one month thereafter, report to the county auditor, and make payment to the county treasurer, as before required, he shall forfeit and pay double the amount required to be paid by the two preceding sections, to be ascertained, as near as may be, by the testimony of witnesses, and recovered before any justice of the peace, or in the court of common pleas, by civil action, in the name of the county treasurer, for the use of the county, and process issued out of the court of common pleas, in such action, shall be directed to the proper officer, and may be served in any county in this state.

Listing by companies named, &c.

SEC. 16. The president, secretary, or principal accounting officer of every canal or slack water navigation company, railroad company, turnpike company, plank road company, bridge company, insurance company, telegraph company, or other joint stock company, except banking or other corporations whose taxation is specifically provided for in this act, for whatever purpose they may have been created, whether incorporated by any law of this state or not, shall list for taxation, verified by the oath or affirmation of the person so listing, all the personal property, which shall be held to include road bed, water and wood stations and such other realty as is necessary to the daily running operations of the road, moneys and credits of such company

or corporation, within the state, at the actual value in money, in manner following: in all cases return shall be made to the several auditors of the respective counties where such property may be situated, together with a statement of the amount of said property which is situated in each township, incorporated village, city or ward therein; the value of all moveable property shall be added to the stationary and fixed property and real estate, and apportioned to such wards, cities, incorporated villages, or townships, pro rata, in proportion to the value of the real estate and fixed property in said ward, city, incorporated village or township; and all property so listed shall be subject to and pay the same taxes as other property listed in such ward, city, incorporated village or township. It shall be the duty of the accounting officer aforesaid to make return to the auditor of state, during the month of May of each year, the aggregate amount of all property, by him returned as required by the provisions of this act, to the several auditors of the respective counties in which the same may be located. If the county auditor, to whom returns are made, is of the opinion that false or incorrect valuations have been made, or that the property of the corporation or association has not been listed at its full value, or that it has not been listed in the location where it properly belongs, or in cases where no return has been made to the county auditor, he is hereby required to proceed to have the same valued and assessed in the same manner as is prescribed in the several sections of this act regulating the duties of county auditors: provided, that nothing in this section shall be so construed as to tax any stock or interest in any joint stock company held by the state of Ohio: provided, that every agency of an insurance company incorporated by the authority of any other state or government, shall return to the auditor of the county in which the office or agency of such company may be kept, in the month of May annually, the amount of the gross receipts of such agency, which shall be entered upon the tax list of the proper county, and subject to the same rate of taxation for all purposes that other personal property is subject to at the place where located.

When assessment shall be made.

SEC. 17. The assessment of all personal property, moneys and credits, investments in bonds, stock, joint stock companies or otherwise, and the valuation of all lands and lots, and new structures which have not previously been valued and placed on the duplicate, shall be made between the second Monday of April and the third Monday of May annually; and the assessor of each township shall, on or before the first Monday of May annually, leave with each person resident in his township, of full age, and not a married woman or insane person, or at the office, usual place of residence or business of such persons, a written or printed notice, requiring such person to make out for such assessor, a statement of the property which, by this act, he is required

Notice to and statement of property by owner.

to list, accompanied with printed forms in blank of the statement required of such persons; and the assessors shall, at the time he delivers such notice and blank forms, receive from such persons the statement of his or her personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, verified by his oath, unless such person shall require further time to make out such statement, in which case he shall call for such statement before the third Monday of May.

Proceedings if statement not given.

SEC. 18. In every case where any person shall refuse or neglect to make out and deliver to the township assessor a statement of personal property, moneys and credits, investments in bonds, stocks, joint stock companies, or otherwise, as provided by this act, or shall refuse or neglect to take and subscribe an oath or affirmation as to the truth of such statement, or any part thereof, which he is by this act required to verify by his oath or affirmation, or in case of the sickness or absence of such person, the assessor shall, in every such case, proceed to ascertain the number of each description of the several articles of personal property enumerated in the seventh section of this act, and the value thereof, the value of personal property subject to taxation, other than enumerated articles, and the value of the moneys and credits, investments in bonds, stocks and joint stock companies, or otherwise, of which a statement shall not have been made to said assessor, as aforesaid as the case may require; and to enable him so to do, he is hereby authorized to examine on oath or affirmation, any person or persons whom he may suppose to have a knowledge of the articles, or value of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which the person so refusing, or absent, or sick, was required to list.

Or in case of sickness or absence of owner of property,

SEC. 19. In all cases in which the township assessors are required, in consequence of the sickness or absence of the person whose duty it is to make out a statement of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, or in consequence of his neglect or refusal to make out or to be sworn to such statement, to ascertain the several items and value of such personal property, moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, if the assessor shall be unable to obtain positive evidence of the items and value of such property, moneys, and credits, he shall return such articles and value as, from general reputation and his own knowledge of facts and circumstances, he believes to be a correct list of the articles and value of such property, moneys, credits, investments in bonds, stock, joint stock companies, or otherwise, that such person would be by this act required to list.

—return from general reputation.

Time and mode of return by assessor to county auditor.

SEC. 20. Each township assessor shall, on or before the third Monday of May annually, make out and deliver to the

auditor of his county, in tabular form and alphabetical order, a list or lists, of the names of the several persons, companies, or corporations in whose name any personal property, moneys, credits, investments in bonds, stocks or joint stock companies or otherwise, shall have been listed in his township, and he shall enter separately in appropriate columns, opposite each name, the aggregate value of the several species of personal property enumerated in the seventh section of this act, as attested by the person required to list the same, or as determined by the assessor, making separate lists of persons residing out of an incorporated town, and of persons who are residents of any incorporated town; the columns shall be accurately added up, and in every case where any person whose duty it is to list any personl property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, for taxation, shall have refused or neglected to list the same when called on for that purpose by the assessor, or to take and subscribe an oath or affirmation, in regard to the truth of his statements of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, or any part thereof, when required by the assessor, the assessor shall enter opposite the name of such person, in an appropriate column, the words "refused to list," or "refused to swear," and in every case where any person required to list property for taxation shall have been absent or unable from sickness to list the same, the assessor shall enter opposite the name of such person, in appropriate column, the word "absent," or "sick."

To return statements of owners of property.

SEC. 21. Each township assessor shall, at the time he is required by this act to make his return of taxable property to the county auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, and the auditor shall carefully preserve the same in his office for one year.

Return of list of new structures, &c.

SEC. 22. Each township assessor shall, annually, at the time of taking a list of personal property, also take a list of all real property situate in his township, that shall have become subject to taxation since the last previous listing of property therein, with the value thereof estimated agreeably to the rules prescribed therefor by the ninth section of this act, and of all new buildings or other structures of any kind of over one hundred dollars in value, the value of which shall not have been previously added to, or included in the valuation of the land on which such structures have been erected; and shall make return to the county auditor thereof, at the same time he is required by this act to make his return of personal property, in which return he shall set forth the tract or lot of real property on which each of such structures shall have been erected, the kind of structures so erected, and the true value added to such parcel of real property, by the erection thereof; and the additional sum which it is believed the

land on which the structure is erected, would sell for at private sale, in consequence thereof, shall be considered the value of such new structure; and in case of the destruction by fire, flood, or otherwise, of any building or structure of any kind, over one hundred dollars in value, which shall have been erected previous to the last valuation of the land on which the same shall have stood, or the value of which shall have been added to any former valuation of such land, the assessor shall determine, as near as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make return thereof to the county auditor, as in this section provided.

Oath of township assessor.

SEC. 23. Each township assessor shall take and subscribe an oath which shall be administered by the auditor or a magistrate, and certified by the officer administering the same, and attached to the return which he is required to make to the county auditor, in the following form:

I, ————, assessor for ——— township, in the county of ———, do solemnly swear, that the value of all personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of which a statement has been made to me by the person required by this act for the assessment and taxation of all property in this state, according to true value to list the same, is truly returned, as set forth in such statement; that in every case, where, by law, I have been required to ascertain the items and value of the personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of any person, company, or corporation, I have diligently, and by the best means in my power, endeavored to ascertain the same; and that, as I verily believe, a full list, with the value thereof, estimated by the rules prescribed by said act, is set forth in the annexed return; that in no case, have I knowingly omitted to demand of any person of whom, by said act, I was required to make such demand, a statement of the description and value of personal property, or of the amount of moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, which he was required to list, or in any way connived at any violation or evasion of any of the requirements of said act, in relation to the listing or valuation of property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of any kind, for taxation.

DISTRICT ASSESSOR.

Division of counties into districts.

SEC. 24. The county commissioners of each county in this state shall, at their June session, in the year one thousand eight hundred and sixty-four, and every sixth year thereafter, divide their county into suitable and convenient districts, not less than the number of townships in their county; and any county within the limits of which there is a city, the commissioners shall divide said city into districts,

comprising within each not less than one ward, or more than five, and no township or ward shall be divided in making such district which district shall be composed of contiguous territory; and the commissioners shall give notice by publication in some newspaper in the county, and if no newspaper is published in the county, then by public notice set up in each township and ward, at the usual place of holding elections, setting forth the boundaries of districts in cities, and the qualified electors of such districts shall, at the October election, in the year eighteen hundred and sixty-four, and every sixth year thereafter, elect some citizen of such district, having the qualifications of an elector, as assessor of real property within such district; the judges of election shall keep a separate poll book for the election of said assessors, and the returns thereof, duly certified as in other cases, shall be made to the county auditor, who, with the clerk of the court of common pleas and probate judge of the county, shall open the same and declare the result; and the auditor shall, within ten days after opening such returns, give notice to each of the persons elected of his election. And whenever the commissioners have failed to district their county at their June session, in accordance with the provisions of this act, it shall be their duty to district said county at any subsequent meeting of the board prior to the first Monday of April ensuing.

Election of district assessors;

—their bond and oath.

SEC. 25. Each person elected to the office of district assessor shall be forthwith notified by the county auditor of his election; and each person so elected shall, within ten days after receiving such notice, file with such auditor his bond payable to the state of Ohio, with at least one good freeholder surety, to the acceptance of the county auditor, in the penal sum of two thousand dollars, conditioned that he will diligently, faithfully and impartially perform all and singular the duties enjoined on him by this act, and he shall, moreover, take and subscribe on said bond an oath that he will, according to the best of his judgment, skill and ability, diligently, faithfully and impartially perform all the duties enjoined on him by this act; and if any person so elected shall fail to give bond, or shall fail to take an oath as is required in this section, within the time therein prescribed, the office to which he was elected shall be considered vacant.

SEC. 26. If there shall be a vacancy for the cause aforesaid, or from any other cause, or if there shall be a failure to elect in any district of any county, such vacancy or office shall be forthwith filled by the auditor, treasurer and recorder of the county, or any two of them, by the appointment of any competent and suitable citizen of their county who will accept and perform the duties of such office, who shall give bond and take an oath of office as is required in the foregoing section.

SEC. 27. It shall be the duty of each district assessor to make out from the maps and descriptions furnished him by

the county auditor, and from such other sources of information as shall be in his power, a correct and pertinent description of each tract and lot of real property in his district; and when he shall deem it necessary to obtain an accurate description of any separate tract or lot in his district, he may require the owner or occupier thereof to furnish the same, with any title papers he may have in his possession; and if such owner or occupier, upon demand made for the same, shall neglect or refuse to furnish a satisfactory description of such parcel of real property to such assessor, he may employ a competent surveyor to make out a description of the boundaries and location thereof, and a statement of the quantity of land therein, and the expense of such survey shall be returned by such assessor to the auditor of his county, who shall add the same to the tax assessed upon such real property; and it shall be collected by the treasurer of the county with such tax, and when collected, shall be paid on demand to the person to whom the same is due; and he shall, in all cases, from actual view, and from the best sources of information within his reach, determine as near as practicable the true value of each separate tract and lot of real property in his district, according to the rules prescribed by this act for valuing real property; and he shall note in his plat-book, separately, the value of all houses, mills, and other buildings, which exceed one hundred dollars in value, on any tract of land other than town lots, which shall be carried out as a part of the value of such tract; he shall also enter on his plat-book the number of acres of arable or plow land, the number of acres of meadow and pasture land, and the number of acres of wood and uncultivated land in each tract, as near as may be.

Duties of district assessor—His description of real estate.

Re-survey, &c.

SEC. 28. For the purpose of enabling the assessor to determine the value of buildings and other improvements, he is hereby required to enter, with the consent of the owner or occupant thereof, and fully to examine all buildings and structures of whatever kind, which are not by this act expressly exempted from taxation.

—His examination of buildings

SEC 29. Each district assessor shall, on or before the first Monday of July, one thousand eight hundred and fifty-nine, and every sixth year thereafter, make out and deliver to the auditor of his county, a return, in tabular form, contained in a book to be furnished him by such auditor, of the amount, description and value of the real property subject to be listed for taxation in his district, which return shall contain: 1st. The names of the several persons, companies or corporations, in whose names the several tracts of real property, other than town property, in each township within his district, shall have been listed; and in appropriate columns, opposite each name, the description of each tract, designating the number of acres, the number of the section, and the part thereof, and of the township or survey, listed in such name, and the value of each separate tract, as deter-

—His return to county auditor.

mined by the assessor. 2d. The names of the several persons, companies or corporations, in whose names the several lots of real property in each town in his district, shall have been listed; and in the appropriate columns, opposite each name, the description of each lot, and the value thereof, as determined by the assessor; and such description shall designate the town and number of the lot, and the part thereof; and if part of a lot is listed, it shall state the number of feet along the principal street on which it abuts. If the name of the owner of any tract of land or lot shall be unknown, the word "unknown" shall be entered in the column of names opposite said tract or lot. If such land be situated in the Virginia military district, or is not embraced in any land district, it shall set forth the original survey or surveys, part or parts thereof, contained in each separate tract so listed.

—Return as to burying grounds, school houses, &c.

SEC. 30. The district assessor, at the time of making the assessment of real property subject to taxation, shall enter in a separate list, pertinent descriptions of all burying grounds, public school houses, houses used exclusively for public worship, and institutions of purely public charity, and public buildings and property used exclusively for any public purpose, with the lot or tract of land on which such house or institution or public building is situated, and which are by this act exempt from taxation; and he shall value such houses, buildings, property, lots and tracts of land, at their true value in money, in the same manner that he is required to value other real property, designating in each case the township or town, and number of the school district, or the name or designation of the school, religious society or institution, to which each house, lot or tract belongs; or if such property is held and used for other public purposes, he shall state by whom or how it is held.

DUTIES OF COUNTY AUDITORS.

When county auditor to furnish lists and maps &c. to district assessor.

SEC. 31. The county auditor of each county shall, as soon as practicable, after the first day of March, one thousand eight hundred and fiftv-nine, and every sixth yèar thereafter, make out and deliver to the assessor of each district in his county, an abstract from the books in his office, containing a description of each tract and lot of real property situate within such district, with the name of the owner thereof, if known, and the number of acres or quantity of land contained therein, as the same shall appear on his books; and also, a map of each township and town within such district, with such plat books as may be necessary to enable the district assessor to make a correct plat of each section, survey and tract in his district.

Penalty if individuals fail to give statement,

SEC. 32. Each county auditor shall add to the value, as returned by the assessor, of all personal property, and of all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, which the owner or other person in

behalf of the owner, whose duty it is made by this act to list the same, has refused or neglected to list, or to the value of which such person shall have refused or neglected to swear or affirm, when required so to do, in obedience to the provisions of this act, fifty per centum on the value so returned by the assessor; and in all cases when the party, on demand, refuses to swear to any part of the return, the assessor shall return, "refused to swear as to the whole amount."

—unless sick, absent, &c.

SEC. 33. If any person, required to list property for taxation, shall have been prevented by sickness or absence from giving to the assessor such statement, such person, or his agent having charge of such property, may at any time before the assessment of taxes thereon by the county auditor, make out and deliver to the county auditor, a statement of the same as required by this act; and the county auditor shall, in such case, make an entry thereof in the return for the proper township, and correct the corresponding item or items in the return made by the assessor, as the case may require; but no such statement shall be received by the county auditor from any person who shall have refused or neglected to make oath to his statement, when required by the assessor, agreeably to the provisions of the twenty-fifth section of this act, nor from any person, unless he shall make and file with the county auditor, an affidavit that the person required by this act to list the same, was absent from his township, without design to avoid the listing of his property, or was prevented by sickness from giving to the assessor the required statement, when called on for that purpose. If from a careful examination of the returns made by the district assessors, the county auditor shall discover that any tract of land or town lot, or part of either, in his county, shall have been omitted in the returns of such assessors, he shall add the same to his list of real property, with the name of the owner, and shall forthwith notify the assessor in whose returns such omission occurred thereof, who shall forthwith proceed to ascertain, and return to the county auditor the value of the tract or lot, or part thereof; or in case of the inability or neglect of the assessor, the auditor may ascertain the value of such tract or lot, or part thereof, and add the same to the list of real property.

When lands or lots have been omitted, how to list them.

SEC. 34. The county auditor, if he shall have reason to believe, or be informed that any person has given to the assessor a false statement of the personal property, moneys or credits, investments in bonds, stocks, joint stock companies, or otherwise, or that the assessor has not returned the full amount required to be listed in his ward or township, or has omitted or made an erroneous return of any property, moneys or credits, investments in bonds, stocks, joint stock companies, or otherwise, which are by law subject to taxation, shall proceed at any time before the final settlement with the county treasurer, to correct the return of the asses-

In case of false statement of personal property, duty of auditor.

sor, and to charge such persons on the duplicate with the proper amount of taxes; to enable him to do which, he is hereby authorized and empowered to issue compulsory process, and require the attendance of any person or persons whom he may suppose to have a knowledge of the articles, or value of the personal property, moneys or credits, investments in bonds, stocks, joint stock companies, or otherwise, and examine such person or persons, on oath or affirmation, in relation to such statement or return; and it shall be the duty of the auditor in all such cases, to notify every such person, before making the entry on the duplicate, that he may have an opportunity of showing that his statement or return of the assessor was correct; and the county auditor shall, in all such cases, file in his office a statement of the facts or evidence upon which he made such correction; but he shall, in no case, reduce the amount returned by the assessor, without the written assent of the auditor of state, given on a statement of facts submitted by the county auditor. That in all cases in which any person shall make a false statement of the amount of property for taxation, to evade the payment of taxes, in whole or in part, the person making such false statement, shall be liable for and pay all costs and expenses that may be incurred under the provisions of this act, and the same fees and costs shall be allowed and paid as is now or may be allowed by law, for similar services, and if not paid may be collected before any justice of the peace of the proper county, by suit in the name of the county commissioners, but in all cases under this act where the statement shall be found correct, and no intention to evade the payment of taxes, the costs and expenses incurred under this act, shall be paid out of the county treasury of the proper county, on the order of the county auditor.

Costs and expenses under this section—who to pay them.

Errors to be corrected,

SEC. 35. Each county auditor shall, from time to time, correct any errors which he may discover in the name of the owner, in the valuation, description or quantity of any tract or lot contained in the list of real property in his county; but in no case shall he make any deduction from the valuation of any tract or lot of real property, except such as shall have been ordered, either by the state board or by the county board of equalization, in conformity with the provisions of this act, or upon the written order of the auditor of state; which written order shall only be made upon a statement of facts submitted to the auditor of state in writing.

—but no deductions to be made except, &c.

In case of erection of new or destruction of old structures.

SEC. 36. Each county auditor shall correct the valuation of any parcel of real property, on which any new structure of over one hundred dollars in value may have been erected, or on which any structure of the like value shall have been destroyed, agreeably to the return thereof made in accordance with the provisions of this act by the assessor, and assess the taxes upon such corrected valuation.

What statement and abstracts county auditor to return to auditor of state annually.

SEC. 37. Each county auditor shall make out and transmit to the auditor of state, before the first day of September annually, a statement of the aggregate value of the taxable property in his county, and of the total amount of taxes for all purposes assessed thereon for that year, and he shall make out and transmit by mail to the auditor of state, on or before the first day of October in every year, a complete abstract of the duplicate of his county; he shall also, at the same time, make out and transmit to the auditor of state an abstract of the number and value of each of the enumerated articles, the value of merchants' and manufacturers' stock, and the value of other personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and the value of all other articles of personal property as returned by the township assessors, or as fixed by the county board of equalization; said abstracts shall be made out in such form as the auditor of state shall prescribe; and shall also make out and transmit to the auditor of state, before the fourth Monday of October, one thousand eight hundred and fifty-nine, and every sixth year thereafter, a complete copy of the grand list of real property of each county as it shall stand upon the duplicate of that year.

How county treasurer shall proceed, when unable to collect taxes by distress, &c.

SEC. 38. If the county treasurer shall be unable to collect, by distress, or otherwise, the taxes which have been, or hereafter shall be assessed upon any person or corporation, or on any executor, administrator, guardian, receiver, accounting officer, agent or factor, such treasurer shall apply to the clerk of the court of common pleas in his county, at any time after his annual settlement with the county auditor, and said clerk shall cause a notice to be served upon such corporation, executor, administrator, guardian, receiver, accounting officer, agent or factor, requiring him forthwith to show cause why he should not pay such taxes; and if he shall fail to show a sufficient cause, said court, at the term to which said notice is returnable, shall enter a rule against him for the payment of such taxes, and the cost of such proceeding, which rule shall have the same force and effect as a judgment at law, and be enforced by attachment or execution, or such process as may be directed by the court.

COUNTY BOARDS FOR THE EQUALIZATION OF REAL PROPERTY.

County boards of equalization.

SEC. 39. The county auditor, the county surveyor, the county commissioners, or a majority of them, shall form a county board for the equalization of the real property of their county, with the exception of the real property in the city of Cincinnati, which shall be equalized by a special board, as hereinafter provided. They shall meet on the first Tuesday after the first Monday of September, one thousand eight hundred and fifty-nine, and every sixth year thereafter, at the auditor's office, in the several counties, when the county auditor shall lay before them the returns of the real property,

—Time of meeting and duties.

made by the several district assessors of such county, with the additions he shall have made thereto, and having each taken an oath fairly and impartially to equalize the value of the real estate of such county, agreeably to the provisions of this act, they shall immediately proceed to equalize such valuation, so that each tract or lot shall be entered on the tax list at its true value; and for this purpose they shall observe the following rules: 1st. They shall raise the valuation of such tracts and lots of real property as, in their opinion, have been returned below their true value, to such price or sum as they may believe to be the true value thereof, agreeably to the rules prescribed by this act for the valuation thereof. 2d. They shall reduce the valuation of such tracts and lots as, in their opinion, have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to the relative situation, quality of soil, improvements, natural and artificial advantages, possessed by each tract or lot. 3d. They shall not reduce the aggregate value of the real property of the county, below the aggregate value thereof, as returned by the assessors, with the additions made thereto by the auditor, as hereinbefore required; the county auditor shall keep an accurate journal or record of the proceedings and orders of said board.

Special board for Cincinnati.

SEC. 40. There shall be a special board for the equalization of the real property in the city of Cincinnati, to be composed of the county auditor and six citizens of said city, to be appointed by the city council; said board shall meet at the auditor's office in Cincinnati, on the fourth Monday of October, one thousand eight hundred and fifty-nine, and every sixth year thereafter, and shall have power to equalize the value of the real property within the city of Cincinnati, and shall be governed by the same rules, provisions and limitations that are prescribed in the preceding section for the government of the county boards for the equalization of property.

County auditors' abstract to auditor of state.

SEC. 41. Each county auditor shall, on or before the first Monday of December, one thousand eight hundred and fifty-nine, and every sixth year thereafter, make out and transmit to the auditor of state an abstract of the real property of each township in his county, in which he shall [set] forth: 1st. The number of acres, exclusive of town lots, returned by the several assessors in his county, with such additions as shall have been made thereto. 2d. The aggregate value of all such real property, other than town lots, as returned by the several assessors of his county, inclusive of such additions as shall have been made thereto, under the provisions of this act. 3d. The aggregate value of the real property in each town in his county, as returned by the several assessors, with such additions as shall have been made thereto.

STATE BOARD OF EQUALIZATION.

SEC. 42. The state board of equalization shall consist of one member from each senatorial district of the state, except the first district, which shall be entitled to three members, all of whom shall have the qualifications of electors; and the qualified electors of each senatorial district shall, at the October election, in the year one thousand eight hundred and fifty-nine, and every sixth year thereafter, elect persons to serve as members of such board of equalization, in accordance with the provisions of this section; and the returns of the poll books and certificates of election shall be governed by the law regulating the election of senators; and in case of vacancy in such office, either by death, resignation or otherwise, the governor of the state shall have power to appoint a person, who shall be a resident elector of the district so vacated, to fill such vacancy, as soon as he shall be informed thereof: the auditor of state shall, by virtue of his office, be a member of this board. The said board shall meet at Columbus on the first Monday of November, one thousand eight hundred and fifty-nine, and every sixth year thereafter, and the members thereof shall each take an oath or affirmation, that he will, to the best of his knowledge and ability, so far as the duty devolves on him, equalize the valuation of real property among the several counties and towns in the state, according to the rules prescribed by this act for valuing and equalizing the value of real property; and having received from the auditor of state the abstracts of real property transmitted to him by the several county auditors, said board shall proceed to equalize the same among the several towns and counties of the state, in the manner hereinafter prescribed: 1st. They shall add to the aggregate valuation of the real property of every county which they shall believe to be valued below its true value in money such per centum, in each case, as will raise the same to its true value in money. 2d. They shall deduct from the aggregate valuation of the real property of every county, which they shall believe to be valued above its true value in money, such per centum, in each case, as will reduce the same to its true value in money. 3d. If they shall believe that right and justice require the valuation of the real property of any town or towns in any county, or of the real property of such county not in towns, to be raised or to be reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, they may, in every such case, add to or take from the valuation of any one or more of such towns, or of property not in towns, such per centum as they shall believe will raise or reduce the same to its true value in money. 4th. They shall not reduce the aggregate value of all the real property of the state, as returned by the county auditors, more than ten millions of dollars. 5th. Said board shall keep a full record of their proceedings and orders.

State board of equalization, their election.

Vacancies

Time and place of meeting, oath and duties.

DUTIES OF STATE AUDITOR.

Auditor of state to transmit equalization statement to county auditors.

SEC. 43. When the state board of equalization shall have completed their equalization of real property among the several counties, the auditor of state shall transmit to each county auditor, a statement of the per centum to be added to, or deducted from the valuation of the real property of his county, specifying the per centum added to, or deducted from the valuation of the real property of each of the several towns, and of the real property not in towns, in case an equal per centum shall not have been added to or deducted from each; and the county auditor shall forthwith proceed to add to or deduct from each tract or lot of real property in his county, the required per centum on the valuation thereof, as it stands, after the same shall have been equalized by the county board of equalization; adding, moreover, or deducting, in each case, any fractional sum of less than fifty cents, so that the value of any separate tract or lot, shall contain no fraction of a dollar. The auditor of state shall, on or before the fifteenth day of July, annually, give notice to each county auditor, of the rates per centum required by the general assembly, to be levied for the payment of the principal and interest of the public debt, for the support of common schools, for defraying the expenses of the state, and for such other purposes as shall be prescribed by law; which rates or per centum shall be levied by the county auditor on the taxable property of each county on the duplicate, and shall be entered in one column, and denominated state taxes.

His annual notice to county auditors of rates of taxation.

ANNUAL COUNTY BOARD OF EQUALIZATION.

Annual county board—powers and duties.

SEC. 44. There shall be an annual county board for the equalization of the real and personal property, and moneys and credits in each county, exclusive of the city of Cincinnati, to be composed of the county commissioners and county auditor, who shall meet for that purpose at the auditor's office in each county on the first Wednesday after the third Monday of May annually. Said board shall have the power to hear complaints, and to equalize the valuation of all real and personal property, moneys and credits, within the county and shall be governed by the rules prescribed in the fifty-third section of this act, for the government of county boards for the equalization of real property: provided, that said board shall not reduce the value of the real property of the county below the aggregate value thereof, as fixed by the state board of equalization, nor below its aggregate value on the duplicate of the preceding year, to which shall be added the value of all new entries and new structures, over the value of those destroyed, as returned by the several township assessors for the current year.

Annual special board for Cincinnati.

SEC. 45. There shall be a special board for the equalization of the real and personal property, moneys and credits, in the city of Cincinnati, to be composed of the county

auditor and six citizens of said city, to be appointed by the city council; said board shall meet annually, at the auditor's office in Cincinnati, on the fourth Monday of May, and shall have power to equalize the value of the real and personal property, moneys and credits, within the city of Cincinnati, and shall be governed by the same rules, provisions and limitations, that are prescribed for the government of the county boards, for the equalization of real and personal property, moneys and credits: provided, that said board shall not be authorized to extend its session beyond the fourth Monday in June, in each year.

Further duties of annual county boards.

SEC. 46. The several county auditors shall lay before said boards of equalization, the valuation of the several tracts and lots of real property in their county, as the same were entered on the duplicate of the preceding year, or as fixed by the state board of equalization, and of those returned by the assessors of the several townships, for the current year, with such maps, returns, lists and abstracts, as are in their offices; and each board shall keep a regular journal of its proceedings, which shall be deposited with the auditor of the county; and the county auditor shall add to or deduct from the value of any tract or lot of real property, or of any district, township or town, such sum or per cent. as shall have been ordered by the board of equalization. And said board shall, also, at the same time, hear complaints, and equalize the assessments of all personal property, moneys and credits, new entries and new structures, returned for the current year by the township assessors; and said board shall have power to add or deduct from the valuation of the personal property, or moneys or credits, of any person, returned by the assessors, or which may have been omitted by him, or to add other items, upon such evidence as shall be satisfactory to said board, whether said return be made upon oath of such person or upon the valuation of the assessor; but when any addition shall be ordered to be made to any list returned under oath, a statement of the facts on which such addition was made, shall be entered on the journal of the board; and when any reduction shall be ordered to be made in the amount of personal property, or moneys and credits, of any person, whether such return be made by such person or by the assessor, a statement of the facts on which such reduction was made, shall be entered on the journal of the board.

DUTY OF COUNTY AUDITORS AS TO MAKING TAX LISTS AND DUPLICATES, AND ASSESSING TAXES.

County auditor's tax lists and duplicates.

SEC. 47. Each county auditor shall make out, in a book to be prepared for that purpose, in such manner as the state auditor shall prescribe, a complete list or schedule of all the taxable property in his county, and the value thereof, as equalized, arranged in the form following: Each separate tract of real property in each township of his county, other

than town property, shall be contained in a line or lines opposite the name of the owner or owners, arranged in numerical or alphabetical order. Each separate lot or tract of real property in each town shall be set down in a line or lines, opposite the name of the owner or owners, arranged in numerical or alphabetical order. The value of personal property, moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, of each person, company, or corporation, within each township, shall be set down in a column opposite the name of the owner, person, or corporation, in whose name the same is listed; the names of persons in each township, who are not residents of any incorporated town, shall be set down in alphabetical order in one list, and the names of persons who are residents of any incorporated town shall be entered in another list in alphabetical order.

—As to the tax to be levied on each tract, &c.

SEC. 48. Each county auditor, after receiving from the auditor of state, and from such other officers and authorities as shall be legally empowered to determine the rates or amount of taxes to be levied for the various purposes authorized by law, statements of the rates and sums to be levied for the current year, shall forthwith proceed to determine the sums to be levied, upon each tract and lot of real property, adding the taxes of any previous year, that may have been omitted, and upon the amount of personal property, moneys and credits, listed in his county, in the name of each person, company or corporation, which shall be assessed equally on all real and personal property, subject to such taxes, and set down in one or more columns, in such manner and form as the auditor of state shall prescribe; and in all cases where the whole amount of taxes upon the personal [property,] moneys and credits of any person shall not amount to ten cents, the auditor shall not enter the same upon the duplicate, if such person has no other taxable property.

Township assessors may appoint assistants.

SEC. 49. Any district or township assessor, who shall deem it necessary, to enable him to complete, within the time prescribed by this act, the listing and valuation of the property, moneys and credits, of his district, township, or ward, may, with the approbation of the county auditor, appoint some well qualified citizen of his county or township to act as an assistant, and assign to him such portion of his district or township as he shall think proper; and each assistant, so appointed, shall, within the division of such district or township assigned him, under the direction of the assessor, after giving bond and taking an oath or affirmation, as prescribed in this act, perform all the duties enjoined upon, vested in, or imposed upon assessors by the provisions of this act.

Pay of district assessors and members of county and state boards.

SEC. 50. Each district assessor, and each member of the county boards of equalization, shall be entitled to receive for each day necessarily employed in the performance of the duties enjoined on him by this act, such sum as the com-

missioners of his county shall allow, not exceeding two dollars, to be paid out of the county treasury, on the order of the county auditor; each member of the state board of equalization shall receive for each day he shall attend on the session of said board, three dollars, and the like sum for every twenty-five miles he shall necessarily travel in going to and returning from Columbus, to be paid out of the state treasury, on the order of the auditor of state.

SEC. 51. The commissioners of each county shall, at their March or at their June session, annually, determine on the amount to be raised for ordinary county purposes, for public buildings, for the support of the poor, and for interest and principal on the county debt. The commissioners, however, shall set forth upon the record of proceedings specifically the amount to be raised for each of the above defined purposes. The county auditor shall carefully ascertain the net amount collected for each purpose under said levy; and it shall not be lawful to use any specific fund for any other purpose than the one for which the same was specifically levied, until the purpose for which such tax was levied shall have been accomplished.

Tax for township, &c., purposes.

SEC. 52 The trustees of the several townships in each county shall, on or before the fifteenth day of June, annually, determine the amount necessary to be raised in their townships, respectively, for ordinary township purposes, for the payment of legal and just claims against such township, and for the support of the poor; the levy for said purposes shall be specific, and so entered upon the record of the proceedings of said trustees, and certified to the county auditor, who shall levy the same on the duplicate; and when settlement shall be made with the county treasurer, he shall carefully ascertain the net amount collected for each purpose; and such specific fund shall not be used for any other purpose than the one for which the same was specifically levied.

When the lien of the state for taxes accrues.

SEC. 53. The lien of the state for the taxes levied for all purposes in each year, shall attach to all real property subject to such taxes, on the first day of June, annually, and shall continue until such taxes, with any penalty which shall accrue thereon, shall be paid; and all personal property subject to taxation shall be liable to be seized and sold for taxes; and the personal property of any deceased person shall be liable, in the hands of any executor or administrator, for any tax due on the same by any testator or intestate.

Liability of personal property for taxes.

Abstract only, of delinquent list to be forwarded to auditor of state.

SEC. 54. The delinquent list shall not, hereafter, be returned to the office of the auditor of state, but shall be recorded by the county auditor, immediately after his semi-annual settlement with the county treasurer, an abstract of which, in such form as the auditor of state shall prescribe, shall be sent to his office with the settlement sheet of the county treasurer, in August; and no taxes returned delin-

Payment of delinquent taxes into state treasury.

quent shall be paid into the state treasury except by the county treasurers; and in making out the duplicate of each year, all tracts of land and lots returned delinquent or forfeited to the state, shall be again entered on the duplicate, and the taxes on such tract or lot, including the taxes of the current year, shall be charged thereon, with thirty per cent. penalty on the amount charged on the duplicate of the preceding year.

Delinquent and forfeited land to be taxed.

Auditor of state to furnish county auditors with forms, &c.

SEC. 55. The auditor of state shall, from time to time, prepare and transmit to the several county auditors, all such forms and instructions as he shall deem necessary to carry into effect the provisions of this act; and with the advice of the attorney general, he shall decide all questions which may arise as to the true construction of this act, or in relation to any tax levied, or proceeding under the same, subject, however, in all cases, to an appeal to the supreme court.

—To decide on construction of this act—appeal.

County auditors forms and instructions to township assessors.

SEC. 56. County auditors shall, before the fifteenth of April, annually, make out the blank forms and instructions for the township assessors, and forward them to the township clerks; and the auditors of counties, and assessors of townships and wards, shall, in all respects, except as hereinbefore provided, be governed by the rules and regulations contained in the several acts prescribing their duties.

Penalty on county auditors and township assessors for neglect of duty, &c.

SEC. 57. Every county auditor, and every district and township assessor, who shall, in any case, refuse or knowingly neglect to perform any duty enjoined on him by this act, or who shall consent to or connive at any evasion of its provisions, whereby any proceeding required by this act shall be prevented or hindered, or whereby any property required to be listed for taxation shall be unlawfully exempted, or the valuation thereof be entered on the tax list at less than its true value, shall, for every such neglect, refusal, consent or connivance, forfeit and pay to the state not less than two hundred nor more than one thousand dollars, at the discretion of the court, to be recovered before any court of record in the state.

When costs and counsel fees in suits against treasurer, &c., paid by county.

SEC. 58. That whenever an action at law, or suit in chancery has been commenced, or may hereafter be commenced against any person holding the office of county treasurer, or county auditor, or other county office, for performing or attempting to perform, any duty authorized or directed by any statute or statutes of this state, for the collection of the public revenue, such treasurer, auditor, or other officer, shall be allowed and paid out of the county treasury reasonable fees of counsel and other expenses for defending such action or suit, and the amount of any damages and costs adjudged against him, which said fees, expenses, damages and costs shall be apportioned ratably by the county auditor, among all the parties entitled to share the revenue so collected, and by the said auditor shall be deducted from the shares, or portions of revenue at any time

payable to each, including as one of the said parties the state itself, as well as the counties, townships, cities, villages and school districts, and organizations, entitled as aforesaid.

What certificates of capital stock individuals are not required to list.

SEC. 59. No person shall be required to list for taxation any certificate of the capital stock of any company the capital stock of which is taxed in the name of said company. Personal property of every description, and credits, shall be assessed in the name of the person who was the owner thereof on the day next preceding the second Monday of April in the year in which such assessment shall be made. If any person shall, for the purpose of avoiding the listing or the payment of taxes on any property subject to taxation, sell, give away, or otherwise dispose of any such property under or subject to any agreement expressed or implied, or any understanding with the purchaser, donee or recipient thereof, that the same is to be reconveyed, restored or redelivered to the person so disposing of such property, he shall forfeit and pay for the use of the county double the amount of tax chargeable on such property for the current year.

In whose name personal property &c., shall be assessed.

Penalty for shifting property to avoid listing and taxes.

BANKS AND BANKING COMPANIES.

The return by banks.

SEC. 60. It shall be the duty of the president and cashier of every bank or banking company that shall have been, or may hereafter be incorporated by the laws of this state, and having the right to issue bills for circulation as money, to make out and return under oath, in the manner hereinafter directed, during the month of May annually, a written statement containing, 1st. The average amount of notes and bills discounted, or purchased by such bank or banking company, which amount shall include all the loans or discounts of such bank or banking company, whether originally made or renewed during the year aforesaid, or at any time previous; whether made on bills of exchange, notes, bonds, mortgages, or any other evidence of indebtedness, (at their actual value in money,) whether previous to, during, or after the period aforesaid, and on which such bank or banking company has at any time reserved or received, or is entitled to receive, any profits, or other consideration whatever, either in the shape of interest, discount, exchange, or otherwise. 2d. The average amount of all moneys, effects, or dues of every description belonging to such bank or banking company, loaned, invested, or otherwise used or employed with a view to profit, or upon which such bank or banking company receives, or is entitled to receive interest: provided, however, that the average amount of the specie funds of every such bank kept on hand unemployed, except with a view of redeeming its circulation and meeting its accruing liabilities to depositors, and also the average amount of the balances due from other banks upon which no interest, profit or consideration is reserved or received, shall be excluded in

the above estimates of the taxable property of each bank required to be made and returned as aforesaid.

Their rule of estimate.

SEC. 61. To ascertain the amount of notes and bills discounted and purchased, and all other moneys, effects or dues of every description belonging to such bank or banking company, loaned, invested, or otherwise used or employed, with a view to profit, or upon which such bank or banking company receives, or is entitled to receive interest, to be returned as aforesaid, there shall be taken as a criterion, the average amount of the aforesaid items for each month during the year next previous to the time of making such statement, if so long such bank or banking company shall have been engaged in business, and if not, then during such time as such bank or banking company shall have been engaged in business; and the average shall be made by adding together the amount so found belonging to such bank or banking [company] in each month so engaged in business, and dividing the same by the number of months so added together.

The return by bankers, brokers, and stock jobbers.

SEC. 62. Every person who shall have money employed in the business of dealing in coin, notes, or bills of exchange, or in the business of dealing in, or buying or shaving any kind of bills of exchange, checks, drafts, bank notes, promissory notes, bonds, or other writing obligatory, or stocks of any kind or description whatsoever, shall be held to be a banker, broker, or stock jobber, and in making out their statement for taxation, as required by the sixty-sixth section of this act, shall include in his statement the average value estimated as provided in the sixtieth and sixty-first sections of this act, of all moneys, notes, bills of exchange, bonds, stocks, or other property appertaining to his business as a banker, broker or stock jobber, which he shall have from time to time in his possession, or under his control, during the year next previous to the time of making such statement, if so long he shall have been engaged in such business, and if not, then during the time he shall have been so engaged.

The return by banks organized under the "state bank of Ohio" act.

SEC. 63. The president and cashier of every bank organized under an act to incorporate the state bank of Ohio and other banking companies, passed February 24, 1845, shall, during the month of May in each and every year, make the written statement required by the sixtieth (60) and sixty-first (61) sections of this act, to the auditor of state.

Proceedings on omission or refusal to make return, and collection of taxes, &c.

In case the president and cashier refuse or omit to make such statement, the auditor of state shall ascertain the amount so required to be returned by the president and cashier, from the last quarterly returns made by such bank to his office, to which sum he shall add fifty per cent. The auditor of state shall proceed to assess thereupon the amount of taxes for the various purposes assessed upon property in the locality where said bank has its office, of which assessment the auditor shall give notice to the president and cashier of any such bank. On the 20th day of December in each year, it shall be the duty of the comptroller to draw in favor of the treas-

urer of state, upon each and every such banking company, for the amount of taxes so assessed, which draft it shall be the duty of the said president or cashier to pay forthwith into the state treasury.

Same.

SEC. 64. In default of any such president and cashier to pay the amount of the said draft to the treasurer of state, at his office, on or before the 31st day of December in any year, the treasurer of state shall immediately notify the attorney general thereof, who shall thereupon proceed, in the supreme court of the state, against the said president and cashier, by mandamus, to compel the payment of the said taxes; and it shall be the duty of the said court to allow the said writ. Or the attorney general may also, at his option, commence a civil action against the president and directors of said company, in the court of common pleas or superior court of Franklin county, in the name of the state, for the amount of such taxes.

Distribution of such taxes.

SEC. 65. All taxes, so paid to, or collected by, the state treasurer, shall he distributed by the auditor of state, in the proportions to which the several counties, townships, and other local organizations are entitled.

What banks shall annually in May make returns to county auditor.

SEC. 66. All other banks or banking companies that shall have been, or may hereafter be, incorporated by the laws of this state, and having the right to issue bills for circulation as money, except such banks and companies as are enumerated in section sixty of this act; and all such bankers and brokers as are described in the sixty-second (62) section of this act, shall annually, during the month of May, make out and return to the auditor of the county in which such bank or banking company may be situated, a statement, as provided in the sixtieth and sixty-first (60 and 61) sections of this act.

County auditor's duty upon receiving such returns.

SEC. 67. It shall be the duty of the auditors of the several counties in which one or more such banking companies, as are mentioned in the preceding section, may be situated, upon receiving returns of their notes and bills discounted, and all other moneys, effects, or dues, as provided in the sixty (60) and sixty-first (61) sections of this act, to enter the same for taxation upon the grand duplicate of the proper county, and upon the city duplicate for city taxes, in cases where such city tax is not returned upon the grand duplicate, but is collected by city officers; which amount, so returned and entered, shall be taxed for the same purposes, and to the same extent, that personal property is now or may be taxed, in the place where such bank or banking company is situated; and such tax shall be collected and paid over in the same manner that taxes on other personal property are required by law to be collected and paid over.

Tax upon such returns.

Proceedings if such returns are not made, &c.

SEC. 68. Each auditor of any county, within the limits of which any bank or banking company may be located, shall, in case any president or cashier of such bank or banking company, as are mentioned in the preceding section, refuse

or neglect to make out and deliver to the auditor the statement required in the sixtieth (60) and sixty-first (61) sections of this act, enter upon the duplicate of the proper county, for taxation as aforesaid, as the amount of capital, fifty per cent. in addition to the amount of the capital stock of such bank or banking company; and in order to ascertain the average amount of notes and bills discounted or purchased, and all other moneys, effects or dues of every description, belonging to such bank or banking company, loaned, invested, or otherwise used or employed with a view to profit, or upon which such bank or banking company receives, or is entitled to receive, interest, such auditor is authorized to take, or procure to be taken, the testimony of such of the officers, directors or stockholders of such banking company, or of other persons known or supposed by him to be conversant with the affairs of such bank or banking company, as may enable him to ascertain the amount upon which such bank or banking company should be taxed, agreeably to the provisions of the sixtieth (60) and sixty-first (61) sections of this act; to which amount, when so ascertained, he shall add fifty per cent., which amount he shall then enter upon the duplicate for taxation, as prescribed by this act: provided, that in cases where city taxes are assessed and collected by city authorities, the taxes upon banks for city purposes shall be assessed and collected the same as city taxes.

MISCELLANEOUS.

Owner of life estate, guardian, agent, &c., to pay tax;

SEC. 69. Every person shall be liable to pay tax for the lands or town lots of which he or she may stand seized for life, by curtesy, in dower, or by a husband in right of his wife, or may have the care of as guardian, executor, or as agent, or attorney, having funds of the principal in his or her hands.

—And list land for taxation;

SEC. 70. It is hereby made the duty of every person seized of, or holding lands as mentioned in the first section of this act, to list the same for taxation with the county auditor, on or before the third Monday of May next after the same shall be subject to taxation, and in case of neglecting to list the same as aforesaid, the county auditor shall, when the same shall thereafter be listed, charge upon each tract so neglected to be listed, the taxes for each year the same shall have been omitted after becoming liable for taxation, together with twenty-five per centum penalty and six per centum interest thereon, in addition to the taxes of the current year.

Penalty for neglect;

—And pay tax, unless, &c.

SEC. 71. It shall be the duty of each and every person holding lands as aforesaid, to pay the tax which may be assessed thereon each and every year: Provided, that agents and attorneys shall not thus be obliged to pay such taxes, unless sufficient moneys of their principals be in their hands to pay the same.

Guardian's liability for neglect;

SEC. 72. Every person holding lands as guardian, as aforesaid, and neglecting or refusing to list or pay the taxes on the same, in manner aforesaid, shall be liable, in an action to his or her ward or wards, for any damage his or her ward or wards may have sustained by such neglect or refusal.

—Executor's;

SEC. 73. Every person so being seized, or having the care of lands as aforesaid, as executor, and who shall neglect or refuse either to list or pay the taxes on the same, in manner aforesaid, shall be liable, in an action, to the devisee or devisees of the person whose executor he is, for any damage occasioned by such neglect.

Agent's and attorney's;

SEC. 74. Every person having the care of land, as agent or attorney, as aforesaid, such agent or attorney having funds of the principal in his hands, neglecting or refusing either to list or pay the taxes on such land, shall be liable, in an action to his principal, for any damage such principal may have sustained by such neglect or refusal.

Their lien on the land, &c., for money advanced, &c.

SEC. 75. Every attorney, agent, guardian or executor, seized or having the care of lands as aforesaid, who shall be put to any trouble or expense, in listing or paying the taxes on such lands, or who has to advance his own money for listing or paying the taxes on such lands, shall be allowed a reasonable compensation for the time spent, the expenses incurred, and money advanced, as aforesaid, which shall be deemed in all courts a just charge against the person for whose benefit the same shall have been advanced, and the same shall be preferred to all other debts or claims, and be a lien on the estate, both real and personal, of the person for whose benefit the same shall have been advanced.

Liability and forfeiture of tenants in curtesy, or dower for neglect.

SEC. 76. If any person who shall be seized of lands as tenant by curtesy, or in dower, or who shall be seized of lands for life, or in right of his wife, shall neglect to pay the taxes thereon so long that such land shall be sold for the payment of the taxes, and shall not, within one year after such sale, redeem the same according to law, such person shall forfeit to the person or persons next entitled to such lands in remainder or reversion, all the estate which he or she, so neglecting as aforesaid, may have in said lands; and the remainderman or reversioner may redeem said lands in the same manner that other lands may be redeemed after having been sold for taxes; and, moreover, the person so neglecting as aforesaid, shall be liable in action to the person next entitled to the estate, for all damages such person may have sustained by such neglect.

Redemption in such case.

Rights of a joint owner, who pays his portion of tax.

SEC. 77. In all cases where any tract of land may be owned by two or more persons, as joint tenants, coparceners or tenants in common, and one or more of the proprietors shall have paid, or may hereafter pay the tax, or tax and penalty, charged or chargeable on his or their proportion or proportions of such tract, and one or more of the remaining

proprietors shall have failed, or may hereafter fail to pay his or their proportion of the tax, or tax and penalty charged or chargeable on said land, and partition of said land has, or shall be made between them, the tax, or tax and penalty, paid as aforesaid, shall be deemed to have been paid on the proportion or proportions of said tract, set off to the proprietor or proprietors who paid his or their proportion of said tax, or tax and penalty; and the proprietor or proprietors, so paying the tax, or tax and penalty, as aforesaid, shall hold the proportion or proportions of such tract, set off to him or them as aforesaid, free from the residue of the tax, or tax and penalty, charged on said tract before partition; and the proportion or proportions of said tract, set off to the proprietor or proprietors who shall not have paid his or their proportion of said tax, or tax and penalty, shall be charged with, and held bound for, the portion of said tax, or tax and penalty, remaining unpaid, in the same manner as if said partition had been made before said tax, or tax and penalty, had been assessed, and said proportion or proportions of said tract, originally listed for taxation, in the name or names of said delinquent proprietor or proprietors; and whenever any lands so held by tenants in common, shall be sold upon proceedings in partition, or shall be taken by the election of any of the parties to such proceedings, or when any real estate shall be sold at judicial sale, or by administrators, executors, guardians, or trustees, the court shall order the taxes and penalties, and the interest thereon against such lands, to be discharged out of the proceeds of such sale or election.

Those not paying, held liable as if partition had not been made.

A tax on lands sold at judicial sale to be paid out of proceeds of sale.

School or ministerial lands and lands hereafter sold by the U.S. to be taxed.

SEC. 78. All tracts of land set apart for school or ministerial purposes, and sold by and under authority of law, and all lands which shall be hereafter sold by the United States, shall be subject to taxation as other lands in this state, immediately after such sale.

Annual levy of taxes—rates thereof.

SEC. 79. Hereafter there shall be levied annually on each dollar of taxable property in this state, (other than such as by law is otherwise taxed,) as valued and entered on the grand list of taxable property, for the several purposes in this act enumerated, taxes at the rates hereinafter specified, namely: all county expenses of each of the several counties, other than for roads and bridges, and the payment of the interest and principal of the debts of the county, such rate as the commissioners of such county shall determine to be necessary, not exceeding the following rates, namely: On any amount of such taxable property in such county not more than two millions of dollars a rate of tax not exceeding three mills on the dollar; on any amount of such taxable property between two and four millions of dollars not exceeding two mills on the dollar; on any amount between four and six millions of dollars not exceeding one and a half mills on the dollar; on any amount between six millions and forty millions of dollars not exceeding one

and one-fourth mills on the dollar; on any amount over forty millions not exceeding one mill on the dollar; provided, that in case any important bridge or bridges built and maintained by any county shall be destroyed by any casualty, the restoration of which may be necessary for public accommodation, the commissioners of such county may levy a special tax not exceeding in any year one mill on the dollar of the taxable property of the county, the proceeds of which tax shall be applied solely to the restoration of such bridge or bridges; provided, that the county commissioners of any county in which the total valuation of taxable property does not exceed three millions of dollars may increase the rate of tax levied on the first two millions or any lesser sum of such taxable property to any rate not exceeding five mills on the dollar, and may set apart any portion of the proceeds of such tax not necessary in their opinion to defray other county expenses for the current year for the erection of county buildings, and the amount so set apart shall be denominated the public building fund, and shall be paid out on the order of the commissioners. There shall be levied for township purposes, other than for road, bridge, for the support of the poor, and common school purposes, and for the purpose of paying the interest or principal of any debt or debts owing, such rate of tax on any amount of the taxable property in the township as entered and valued on the grand list, as the trustees of the township shall certify to the county auditor to be necessary, not exceeding one-half of one mill on each dollar of such valuation not more than two hundred thousand dollars, and not exceeding one-fourth of one mill on each dollar of such valuation over two hundred thousand dollars. But the total amount of taxes hereafter levied in any one year by the constituted authorities of any city or incorporated village, except the city of Cincinnati, for all purposes other than for the payment of interest on the debts of such city or incorporated village, and for the payment of the principal of such debts, or parts thereof as may fall due within the then current or next succeeding year, shall not exceed five mills, and in the city of Cincinnati six and a half mills on each dollar of the assessed value of the taxable property in such city or incorporated village: provided, the aforesaid limitation shall not be construed as prohibiting assessments on property adjacent to local improvements made in any city or incorporated village for the purpose of paying the cost thereof and the damages occasioned thereby: and provided, further, that nothing in this section shall be construed to prevent the county commissioners, township trustees, or corporate authorities of any city or village from levying any tax which by any special law they shall be authorized to levy.

SEC. 80. The competent authorities of any county, city or township, that shall have subscribed to the capital stock of any railroad company, and shall have issued its bonds or

Levy to pay bonds of county, city, or township given for railroad subscription.

other securities for the payment of such subscription, may, at any time within five years next before the principal of such bonds, or other securities, shall be payable, if the market price of the stock of such railroad company be less than seventy five per cent, on its par value, levy, or cause to be levied, annually, on the taxable property of such county, city, or township, such tax not exceeding one mill on the dollar, as will be sufficient to balance the discount on the railroad stock held by such county, city, or township, by the time such bonds may become due; and the proceeds of all such taxes shall form, with such stock, a sinking fund, and shall be invested in the purchase of the bonds issued by such county, city, or township, or in other safe and productive securities, and shall be applied to the payment of the bonds so issued, and to no other use or purpose whatever.

Inhibition against counties, townships, cities &c., contracting debts, &c., beyond certain limit.

SEC. 81. It shall be unlawful for the corporate authorities of any county, township, city, or village, unless specially and expressly authorized by some act of the general assembly, to contract any debt, or incur any pecuniary liability for the payment of either the principal or interest of which during the then current year or any subsequent year, it will be necessary to levy on the taxable property of such county, township, city, or village, a higher rate of tax than the maximum rate prescribed by this act.

Contracts in contravention thereof void as to corporation.

SEC. 82. Every contract made in contravention of the provisions of the foregoing section, shall be utterly null and void in regard to any obligation thereby imposed on the corporation on behalf of which such contract purports to have been made; but every commissioner, officer, agent, trustee, or member of any municipal corporation that shall have made, or participated in making, or authorized the making of any such contract, shall be held to be individually liable for its performance; and every commissioner, trustee, director, member of any city or village council, or other officer or agent of any such municipal corporation who shall have been present when any such unlawful contract was made, or authorized to be made, shall be deemed to have made, or to have participated in making, or to have authorized the making the same, as the case may be, unless he shall, if present, have dissented therefrom, and shall have entered or cause to be entered, such dissent on the records of such municipal corporation, or of its councils, trustees, or other officer or agents.

But officer, &c., individually liable, &c.

Tax to build or pay for public buildings of county.

SEC. 83. Whenever a greater amount of tax shall be necessary in any county than the foregoing rates will respectively afford, for the purpose of erecting public buildings, or paying for such buildings already erected, or for the payment of any debt already contracted for county purposes, the commissioners may add to the rate of taxation for such county, not exceeding fifty per centum; which additional tax shall be exclusively appropriated to the purposes for which it was raised.

SEC. 84. The commissioners of any county that has a

floating debt in county orders, (and the amount authorized by present existing laws to be levied for county purposes, be insufficient to defray the expenses of such county and pay the interest on their debt,) may, if they deem it just and right, levy a sufficient amount to pay the interest on their debt; which tax, when collected, shall be applied to paying the interest on the county debt, and no other purpose.

Commissioners may levy tax to pay interest.

NON-RESIDENT PERSONAL TAX.

SEC. 85. Hereafter, it shall be the duty of the several county treasurers of this state, in making return of their delinquent list of personal property to the auditor of their county, to note on the margin of said return, the county and state to which any such delinquent tax payer may have removed to, or reside in, with the date of his removal, if he shall be able to ascertain such fact.

County treasurer's duty as to non-residents' taxes delinquent on personal property.

SEC. 86. It shall be the duty of the several county treasurers in this state, immediately after their settlement with their county auditor, to make out and forward of [to] the county treasurer of the county to which any such delinquent tax-payer may have removed, or reside in, a statement or account of taxes so assessed and not paid, which statement or account shall specify the value of property on which said taxes were levied, and the amount of taxes levied thereon, to which he shall add an amount equal to the sum of twenty-five per centum on the tax so levied, if said delinquent tax-payer shall have left the county in which said taxes were levied after the time required by law for the county auditors to deliver the tax duplicate to the county treasurer; but if he shall have left the county previous to the time required by law for the delivery of said tax duplicate to the county treasurer, then the said county treasurer shall not add the twenty-five per centum.

Same.

SEC. 87. It is hereby made the duty of the several county treasurers of this state, immediately on the receipt of any such statement or account, to proceed and collect the same of the person so charged with said taxes and per centum, for which services he shall be allowed the same fees that county treasurers are now allowed for collecting delinquent taxes, by process, to be collected of the person against whom said taxes are charged.

Collection of such tax.

SEC. 88. For the collection of all taxes, penalty and costs, mentioned in the preceding section of this act, the several county treasurers of this state shall have the same powers that are now or may hereafter be given by any law of this state for the collection of taxes; and all taxes collected pursuant to the provisions of said section by any county treasurer of this state, shall be by him remitted, in the safest and most convenient way, to the treasurer of the county to which said taxes belong; and at the same time he shall forward a statement to the county auditor of said

Same.

county, stating the amount so collected, and of whom; and in case he shall be unable, from any cause whatever, to collect the same, then and in that case he shall return the original statement or account, to the county auditor of the county from which it was sent, together with the cause or causes why said taxes could not be collected, certifying in his official capacity to the same.

Commissioners duty as to delinquent list of personal property.

SEC. 89. It shall be the duty of the several county commissioners in this state, annually, at their September session, to cause the delinquent list of personal property to be publicly read on the second day of said session; and said commissioners may, at any time, direct their county treasurer to proceed to collect, in the manner prescribed in this act, any delinquent taxes due their county.

Collection of taxes from non-resident.

SEC. 90. If such delinquent tax-payer shall have removed out of the state, and have property, moneys or credits due, or to become due in this state, it shall be the duty of the treasurer of the county where such property may be, or in which such tax was assessed, to proceed to collect the same by distress, attachment or other process of law; and when so collected, said treasurer shall be entitled to retain, in addition to the fees allowed him by law for collecting other chattel taxes, a further sum sufficient to pay a reasonable fee for such legal advice and service as he may require.

Treasurer's fees.

How such delinquent collections distributed.

SEC. 91. All taxes collected under the provisions of the last preceding three sections of this act, shall be distributed by the county auditors in the same manner that other delinquent taxes are now required by law to be distributed.

REDEMPTION OF LAND SOLD AT DELINQUENT SALE.

Within what period land sold for taxes may be redeemed.

SEC. 92. All lands and town lots which have been or may hereafter be sold for taxes at delinquent sale under the laws of this state, may be redeemed at any time within two years from and after the sale thereof; and all lands belonging to minors, femes covert, insane persons, or persons in captivity, and which have or may hereafter be sold for taxes, may be redeemed at any time within two years from and after the expiration of such disability.

Applications therefor, to whom made.

SEC. 93. All applications for the redemption of lands or town lots sold for taxes, shall be made to the county auditor of the county in which such lands or town lots are situated.

Deposit of money.

SEC. 94. Any person desiring to redeem any land or town lot, sold by any county auditor or county treasurer, under or by virtue of any law of this state, within the time limited by law for such redemption, may deposit with the county treasurer, upon the certificate of the county auditor, particularly describing such land or town lot, and specifying the same, an amount of money equal to that for which such land or town lot was sold, and the taxes subsequently paid thereon by such purchaser, or those claiming under him, together with interest and fifty per centum penalty on the

whole amount paid, including costs, and one dollar to pay the expense of advertising, as hereinafter provided.

Joint owner, etc., may redeem his proportion.

SEC. 95. When any joint tenants, tenants in common or coparceners, shall be entitled to redeem any land or town lot, sold for taxes, and any person, so entitled, shall refuse or neglect to join in the application for the certificate of redemption, or from any cause, cannot be joined in such application, the auditor may entertain the application of any one of such persons, or so many as shall join therein, and may make a certificate for the redemption of such proportion of said land or lot as the person or persons making such application shall be entitled to redeem. Upon the presentation of any such certificate of the county auditor to the county treasurer, for the redemption of any land or town lot, sold for taxes, and upon the payment of the money into the county treasury as aforesaid, the county treasurer shall give the person or persons making such payment, duplicate receipts therefor, describing the property or the land or town lot as the same is described in or upon the certificate of the auditor as aforesaid; one of which receipts shall be registered by the treasurer, and immediately filed with the county auditor, by the person or persons or party receiving the same; and thereupon the auditor shall forthwith cancel the sale, and transfer the property, land or town lot to the proper person or persons or party; and such receipt, when so filed, shall operate as an extinguishment of all rights, either in law or equity, conferred in any way or manner by such sale. And the auditor shall publish a notice of such redemption in the same newspaper in which the advertisement of sale had been published, for the term of three weeks, either in a weekly or a daily paper, once in each week, at an expense not exceeding one dollar.

Certificate for redemption, and proceedings.

Notice of redemption.

Payment of redemption money to tax purchaser, etc.

SEC. 96. Upon the demand of the purchaser, or his legal representative, and the surrender of the tax certificate, and upon the payment of the auditor's fees, the county auditor shall draw his warrant upon the county treasurer in favor of such purchaser, or his legal representative, for the amount of money so deposited, as hereinbefore mentioned, with the said treasurer, after deducting therefrom the treasurer's fees for such services.

When auditor to note on back of certificate that deposit has not been made.

SEC. 97. In all cases where such deposit shall not be made within two years from the time of the sale of lands or lots sold for delinquent taxes, or within six months from that of lots or lands forfeited to the state for non-payment of taxes, the auditor shall, at the request of the person presenting such certificate, note such fact upon the back of said certificate, and sign his name thereto. When any tract or portion of land or town lot or part thereof is thus redeemed, or any deposit thus made, it shall be the duty of the auditor of the county to note such redemption or deposit, the date thereof, and by whom made, on his record of tax sales, and sign his name officially thereto.

Note of redemption on record of tax sales.

Tax purchaser's improvements, how paid for, etc.

SEC. 98. In case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, on any land or town lot, for which a certificate of redemption shall be made as aforesaid, the premises shall not be restored to the person obtaining such order, until he shall have paid or tendered to the adverse party, the value of such improvements; and if the parties cannot agree on the value of such improvements, the same proceedings shall be had in relation thereto, as shall be prescribed in any law existing at the time of such proceedings, for the relief of occupying claimants of land: provided, that no purchaser of any land or town lot, sold for taxes, nor any person claiming under him, shall be entitled to any compensation for any improvements which he shall make on such land or town lot, within two years from and after the sale thereof.

SALE OF FORFEITED LANDS.

Lands, etc., forfeited to state to be sold.

SEC. 99. That the lands, inlots, outlots, and parts of lots, within the several counties of this state, which have become forfeited to the state, for the non-payment of taxes, and all lands which may hereafter become forfeited to the state by the non-payment of taxes, or otherwise, shall be sold and disposed of by the state of Ohio, agreeably to the provisions of this act. The auditor of state shall cause all lands, inlots, outlots, and parts of lots, now forfeited to the state for the non-payment of taxes and which have not since been purchased by the original owner or owners, or any other person or persons, to be entered in a book, to be provided for that purpose, which entry shall set forth the name, by township and county, as in case of other lands.

Proceedings as to lands, etc., now forfeited.

As to lands hereafter forfeited.

SEC. 100. The auditor of state shall, annually, enter in the book provided for that purpose, all the lands which shall hereafter become forfeited to the state of Ohio, for the non-payment of taxes; and, once in two years, shall make out a list of such forfeited lands, and forward the same to the several county auditors, who shall proceed to sell the same, agreeably to the provisions of this act; and all lands offered for sale under the provisions of this act, and not sold for want of bidders, shall be again advertised and offered for sale, by the county auditor, at the next subsequent sales by him made, under this act, until such lands shall be sold.

Sale of forfeited lands.

Notice of sale.

SEC. 101. That the auditor of each county, on receiving from the auditor of state, the list of lands within his county, as aforesaid, in case the tax and penalties due thereon shall not have been paid, on or before the fifteenth day of October next ensuing, shall forthwith, thereafter, cause notice thereof to be advertised four weeks successively, describing the lands in the same manner they are described on the list furnished by auditor of state, in a newspaper printed in his county, if any such there be, and if not, in some news-

paper in circulation therein, to all concerned, that if the tax, and penalties charged on said list, be not paid into the county treasury, and the treasurer's receipt produced therefor, before the time specified by this act for the sale of said lands, (which day shall be named in said notice), that then, and in that case, each tract so as aforesaid delinquent, on which the taxes, and penalties may remain unpaid, will, on the second Monday of December thereafter, be exposed for sale at the court house, or usual place of holding courts in such county, in order to satisfy such taxes, and penalties; and the auditor in each county shall, on the said second Monday of December, attend at the court house, or usual place of holding courts in said county, and proceed to sell the whole of each tract of land as contained in said list, at public auction, to the highest bidder; in selling whereof, he shall offer each tract separately, beginning with the first tract contained in said list, and so continue on through said list, until each tract contained therein shall be sold. The county auditor is hereby authorized to adjourn the sale therein specified, from day to day, until he shall have disposed of, or offered for sale, each and every tract of land specified in the notice; and the notice of sale required by said act to be given shall set forth that the sale will be so continued; provided, that nothing in this section shall be so construed as to prevent said auditor from offering, in his discretion, any tract of land two or more times at the same sale.

Time of sale and sale.

Auditor may adjourn sales from day to day until sold.

SEC. 102. If any tract or parcel of land shall not sell at such public sale for an amount sufficient to pay the taxes and penalty which stand against such tract, the auditor shall return the same as unsold, to be retained upon the list of forfeited lands, to be offered for sale the next succeeding sale as other forfeited lands: Provided, that if any such tract or parcel of land may have heretofore been or may hereafter be offered for sale two succeeding sales, as above provided, and shall still remain unsold, the county commissioners of the county in which such tract or parcel of land or town lot is situate, may at their regular annual session in June preceding the next regular sale, if in their opinions such tract or parcel of land is of less value than the amount of taxes and penalty due upon it, having fixed a minimum price for the same, order the auditor of the county to offer such tract or parcel of land for sale at the next regular sale of forfeited lands, and to sell the same to the highest and best bidder therefor, at not less than said minimum price, irrespective of the amount of taxes and penalty due upon it, and such sale shall convey the title to the said tract or parcel of land divested of all liability for any arrearages of taxes or penalty which may remain after applying the amount for which it was sold thereon.

Proceedings if land not sold.

SEC. 103. Whenever any tract or parcel of land shall be hereafter sold, under the provisions of this act, at forfeited

How forfeited and sold lands may be redeemed.

sale, any person desiring to do so, may redeem the same, at any time within six months from the sale thereof, by depositing with the county treasurer, as is provided in section ninety-third (93) of this act, the amount of said sale, together with fifty per centum thereon, and by paying all other expenses incidental to, and arising from said sale: Provided, however, that if any of said forfeited lands shall be sold for a greater sum than the tax, interest, penalty and costs, it shall be the duty of the auditor to charge said treasurer separately in each case, in the name of the supposed owner, with the excess above said tax, interest, penalty and costs; and such treasurer shall retain in the treasury of his county the said excess, for the proper owner of said forfeited lands, and upon demand by such former owner, within six (6) years from the day of such sale, pay such excess to said former owner; and in case said treasurer, upon such demand, shall not be fully satisfied as to the right of the person demanding the same to receive it, or in case of different claimants, it shall be the duty of said treasurer to file his bill of interpleader, in the court of common pleas of the county where such land was sold, wherein he shall make the person or persons claiming such excess, and the state of Ohio, defendants, and such suits shall be proceeded in according to the usages of courts of chancery upon bills of interpleader; and, in all cases, the costs of such proceeding shall be paid by the person or persons claiming said excess, as the court shall order; and it shall be the duty of the prosecuting attorney of the county to attend to the same, in behalf of the treasury.

Excess of purchase money to be paid to owner, and when.

If doubtful who is owner, how to proceed.

Certificate to purchaser.

SEC. 104. The county auditor in each county, on a sale being made by him, of a tract of land to any person or persons, under this act, shall give to such purchaser or purchaser, a certificate of such sale; and if the land so sold be not an entire original tract, and the county shall deem it necessary, said certificate shall be directed to the county surveyor of his county, requiring said surveyor to proceed at the request of the purchaser or purchasers, his or their heirs, assignee or assignees, to ascertain the boundaries of such tract of land so purchased, unless said tract shall be holden in common with any other person or persons; in either case on producing or returning to the county auditor the certificate of sale, where the said tract sold is an entire original tract, or where the said tract of land so sold is holden in common with any other person or persons, or on producing the plat and certificate of the county surveyor, attached to a copy of the certificate of sale, the county auditor shall, on the purchaser or purchasers, his or their heirs, assignee or assignees, paying to him the sum of one dollar and twenty-five cents, execute and deliver to such purchaser or purchasers, his or their heirs, assignee or assignees, a deed therefor, in due form, which deed shall be prima facie evidence of title in the purchaser or purchasers; provided, that if any land shall be sold by virtue of this act, the property of

Survey.

Fees for deed.

Legal effect of deed.

any minor, feme covert, insane person, or persons in captivity, the owner or owners thereof shall have a right to redeem the same in the manner prescribed by law: provided, also, that when any tract or lot of land shall be sold by virtue of the provisions of this act, the taxes having been regularly paid previous to said sale, such sale is hereby declared void; and the purchaser or purchasers, his or their heirs, or assignees, on producing the certificate of sale to the auditor of state, shall be entitled to have his or their money refunded from the state treasury; and the auditor shall pay the same out of money appropriated for refunding taxes twice or improperly paid.

Right of minors, femes covert, etc., to redeem.

Rights of parties if taxes have in fact been paid.

SEC. 105. Any person or persons claiming any land, inlot, outlot, or part of a lot, by virtue of any sales made by the provisions of this act, as tenant in common with any other person or persons, may apply for partition of the same, in the same manner as now is or may be provided for the partition of real estate; and on presenting the county auditor's deed, the court, before whom application for partition as aforesaid is made, shall set off to such person or persons, the land claimed in said deed, as his or their share, in the same manner as prescribed by law for the partition of estate or estates, in lands, tenements or hereditaments of joint tenants, tenants in common, and coparceners.

Purchasers may have partition as in other cases.

SEC. 106. That the purchaser of any such lands, his heirs or assigns, shall, from the day of such purchase, be taken in all courts as the assignee of the state of Ohio; and the amount of taxes, and penalties, charged on the said land at the time it was sold, together with all legal taxes afterwards paid thereon by such purchaser, his heirs or assigns, shall operate as a lien on said lands, and may be enforced as any other lien. In all cases where any claimant of any lands heretofore sold, or which may hereafter be sold for the non-payment of taxes, under any law of the state, his heirs or assigns shall recover by action or otherwise the land so sold as aforesaid for taxes, such claimant, his heirs or assigns, shall be liable to refund to the purchaser, his heirs or assigns, the amount of taxes, and penalties due to the state on the land when sold, together with all other taxes paid thereon by such purchaser, his heirs or assigns, up to the time of recovery, with interest; to be recovered by action, or counter claim, or otherwise, as the case may require; and the same shall be required to be paid to the person or persons entitled thereto, before such person or persons shall be evicted or turned out of possession by any claimant recovering, by action, the land so sold for taxes.

—Deemed the assignee of state—his lien;

—May recover, if ejected, the taxes, etc.

—And how.

—And not to be evicted until taxes, etc., refunded.

SEC. 107. It shall be the duty of the auditor of state to open and keep up the records required by this act, and to send out for sale, in alternate years, the lands and town lots hereafter forfeited to the state, and to be governed in all things in the future disposition of such lands and lots, by the provisions of this act. Upon the redemption of any such

Auditor of state to keep record and forward list of lands hereafter forfeited, in alternate years.

lands or lots, or the sale thereof under the provisions of this act, the county auditor shall transfer the same on his duplicate from the state of Ohio, to the proper owner or purchaser thereof; for which transfer he shall not be entitled to receive fees.

Lands redeemed to be transferred on county duplicate.

When county auditor to make return of sale.

SEC. 108. The county auditors of each county, selling any forfeited land under the provisions of this act, shall, within ten days after such sale, make return thereof to the auditor of state.

Apportionment, etc., of moneys arising from sale of forfeited lands.

SEC. 109. That the county auditors shall apportion to their several funds, and pay over to the county treasurer of the proper county, the amount of moneys received from the sale of lands and town lots forfeited to the state for the non-payment of taxes, after deducting the expenses of advertising, distributing said amount to the several funds for which said taxes were originally levied, and the county treasurer shall apply them accordingly, and shall receive two per centum on all moneys by him received, as provided in this section, and no more.

Treasurer's fees.

Acts repealed.

SEC. 110. The act passed April 12, 1852, entitled "an act for the assessment and taxation of all property in the state according to its true value in money;" the act to authorize county auditors to place taxable lands upon tax duplicate in numerical order, passed May 8, 1852; the act to amend the third [section] of an act entitled "an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money," passed April 13, 1852; an act to amend the seventh, twenty-first and sixty-ninth sections of an act entitled "an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money," passed April 13, 1852; an act passed March 14, 1853, to amend the fiftieth section of the act entitled "an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money, passed April 13, 1852;" an act requiring township assessors to ascertain the quantity of wheat and corn raised in the state of Ohio, passed March 5, 1851; the thirteenth section of an act to enforce the collection of taxes which now are or may hereafter be due from banks and other corporations, from bankers, brokers and stock jobbers, and from the agents of foreign corporations; and to protect county treasurers and other officers charged with the collection of the public revenue in the performance of their duties, passed March 14, 1853; an act passed May 1, 1852, supplementary to an act entitled an act entitled "an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money, passed April 13, 1852," an act passed February 12, 1841, entitled "an act supplementary to the act pointing out the mode of levying taxes, passed March 14, 1839;" an act

Swan's R.S. 924.
do 901.
do 925.
do 927.
do 928.
do 933.
do 934.
do 934.

passed January 15, 1840, entitled "an act declaratory of an act passed March 14, 1831, pointing out the mode of levying taxes;" an act passed March 8, 1849, entitled "an act to provide for taxing certain lands sold by the United States;" an act passed March 14, 1831, entitled "an act pointing out the mode of levying taxes;" an act entitled "an act to provide for the payment of interest on county orders," passed February 8, 1847; an act for the redemption of lands and town lots sold for taxes, passed March 3, 1831; an act passed March 16, 1839, entitled "an act for the redemption of lands and town lots sold for taxes, passed March 31, 1839;" an act passed March 23, 1850, entitled "an act to amend the act entitled 'an act for the redemption of lands and town lots sold for taxes,' passed March 3, 1839, and the act entitled 'an act to amend the several acts now in force in relation to the sale of lands forfeited to the state for the non payment of taxes,' passed March 12, 1845;" an act to provide for the sale of lands forfeited to the state for the non payment of taxes, passed March 14, 1831; an act to provide for the sale of lands forfeited to the state for the non payment of taxes, passed February 6, 1832; an act passed February 17, 1835, entitled "an act to amend an act entitled 'an act to provide for the sale of lands forfeited to the state for the non payment of taxes;'" an act passed February 15, 1842, entitled "an act to amend an act to provide for the sale of lands forfeited to the state for the non payment of taxes, passed March 14, 1831;" an act to amend the several acts now in force in relation to the sale of lands forfeited to the state for the non payment of taxes, passed March 12, 1845; an act passed March 22, 1850, entitled "an act to amend the act entitled 'an act to amend the several acts now in force in relation to the sale of lands forfeited to the state for the non payment of taxes, passed March 12, 1845;'" an act passed March 22, 1850, entitled "an act to amend the several acts now in force in relation to the sale of lands forfeited to the state for the non payment of taxes, passed March 12, 1845;" an act passed February 11, 1852, entitled "an act to provide for the more equitable distribution of the proceeds of the sale of lands and town lots forfeited to the state for the non payment of taxes;" an act further prescribing the duties of county treasurers, and to provide for the collection of delinquent taxes, passed May 1, 1854, an act passed April 8, 1857, amendatory of the act entitled "an act to provide for taxing banks and banking companies, passed March 3, 1850;" an act passed April 8, 1858, entitled "an act to amend sections twenty-five, twenty-eight and sixty of an act entitled 'an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money,' passed April 13, 1852;" an act passed April 8, 1858, entitled "an act to amend the ninth section of the act to provide for the sale of lands for-

Swan's R.S. 936.
do 935.
do 936.
do 937.
do 937.
do 939.
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do 940.
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do 943.
do 945.
do 945.
do 945.
do 945a.
do 945a.

Curwen's R. S. 1763, 1871, 2187, 2258, 2248, 1658, 2217, 1825, 759, 571, 1474; Chase 1601; Curwen's R. S. 1337, 2422, 549, 1573, 2418, 2508, 160, 852, 1179, 1553, 1573, 1145.

54 Laws, 96.
55 Laws, 41.

55 Laws, 43. 55 Laws, 52. feited to the state for the non payment of taxes, passed March 14, 1831;" an act passed April 12, 1858, entitled "an act to amend the sixteenth, seventeenth, eighteenth and thirty-second sections of an act entitled 'an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money,' passed and took effect April 13, 1852;" an act to tax the property of banks and bankers so as to require all 55 Laws, 128. 54 Laws, 192. the property employed in banking to bear a burden of taxation equal to that imposed on the property of other persons, passed April 12, 1858; an act passed April 16, 1857, entitled "an act to amend the forty-sixth section of an act entitled 'an act for the assessment and taxation of all property in this state, and for levying taxes thereon according to its true value in money,' passed April 13, 1852," be and the same are hereby repealed: Provided, that the repeal of the aforesaid acts shall in no wise affect any liabilities, civil or criminal, or any rights accruing under them.

SEC. 111. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

Making appropriations for the year eighteen hundred and fifty-nine.

Appropriations for the— SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the following sums, in addition to former appropriations, be and the same hereby are appropriated out of any money in the state treasury for general revenue purposes, to be paid according to law, for the year eighteen hundred and fifty-nine (1859):

EXPENSES OF THE STATE GOVERNMENT.

Executive officers. For the payment of the salaries of the governor, auditor, treasurer, comptroller of the treasury, secretary of state, attorney general, state commissioner of common schools, commissioner of statistics, secretary to the governor, and librarian, eight thousand eight hundred and seventy-five dollars.

Lieut. governor and members of the general assembly, etc. For the payment of the lieutenant governor as president of the senate, members of the general assembly, their clerks, assistant clerks, sergeants-at-arms, their assistants, and messenger boys, twenty-five thousand dollars.

Judges. For the payment of the salaries of the judges of the

supreme court, of the court of common pleas, and judges of the superior courts, fifty-six thousand and fifty dollars.

For the contingent fund of the auditor of state, eight hundred dollars. Auditor's contingent fund.

For the contingent fund of the treasurer of state, one thousand dollars. Treasurer's.

For the contingent fund of the comptroller of the treasury, to reimburse the auditor of state, and for the year 1859, twelve hundred and fifty dollars. Comptroller's.

For postage for the office of the comptroller of the treasury, one hundred dollars. His postage.

For the contingent fund of the state librarian, five hundred dollars. Librarian's.

For the contingent fund of the commissioner of statistics, one hundred dollars. Commissioner of statistics'.

For contingent fund of the state commissioner of common schools, six hundred dollars. School commissioner's.

For the payment of the salary of the clerk to the commissioner of common schools, eight hundred dollars. Salary of his clerk.

For the support of common schools, to be distributed agreeably to the provisions of the several laws now existing on the subject, a sum not exceeding the amount received from all sources for that purpose. Common schools.

For the furnishing of school libraries and apparatus, agreeably to the laws on the subject, a sum not exceeding the amount of tax collected for that purpose. School libraries, etc.

For payment of salary of chief clerk in the auditor of state's office, nine hundred dollars. Auditor's clerks.

For payment of salary of insurance clerk in same office, seven hundred and fifty dollars.

For payment of salary of clerk of the land department in same office, seven hundred and fifty dollars

For payment of salary of general revenue clerk in same office, six hundred dollars.

For payment of salary of sinking fund clerk in same office, six hundred dollars.

For payment of salary of clerk of the public works department of the same office, six hundred dollars.

For payment of the salary of the clerk acting as register in the bank department, seven hundred and fifty dollars.

For the payment of the salary of one corresponding clerk, nine hundred dollars: Provided, that no money shall be drawn from the contingent fund of the auditor of state's office for the payment of clerks in that department, and provided further that the salaries of said clerks shall be paid so far as the same may be applicable, and [out] of unexpended balance of former appropriations for the payment of clerks in the auditor's office.

For the payment of clerks in the office of treasurer of state, two thousand three hundred dollars. Treasurer's clerks.

For the payment of clerks in the office of the comptroller of the treasury, one thousand eight hundred dollars. Comptroller's clerks.

Secretary of state's clerks. For the payment of clerks in the office of the secretary of state, fifteen hundred dollars.

Journal and Statesman. For payment of the Ohio State Journal and the Ohio Statesman for publishing the daily proceedings of the legislature, four hundred and sixty dollars each

Adjutant general. For payment of the salary of the adjutant general, three hundred dollars.

His contingent expenses. For contingent expenses of the adjutant general, two hundred dollars.

Clerk hire. For clerk hire in the office of the adjutant general, four hundred dollars.

Rent of arsenal, care of arms, etc. For rent of arsenal, care, collection, transportation and repair of arms, two thousand dollars.

Quarter master general. For salary of the quarter master general for the year 1859, four hundred dollars.

His contingent expenses. For contingent expenses of the quarter master general, three hundred dollars.

Cleaning and repairing arms, etc. For expenses of cleaning and repairing arms, accoutrements, camp equipage and other similar articles, in pursuance of section 45 of the act to organize and discipline the militia, passed March 28, 1857, five hundred dollars.

Attorney general's clerk. For the payment of a clerk in the office of the attorney general, six hundred dollars.

His expenses in Plum case For payment of the expenses of the attorney general in attending to the case of Elias Plum against the treasurer of Fairfield county, and others, two hundred dollars.

State house janitor For the payment of the salary of the janitor of the state house, services of assistants, and contingent expenses, to be paid on the certificate of the secretary of state, one thousand dollars.

Chief engineer of heating apparatus. For the payment of the chief engineer of the heating apparatus, and other hands employed, and necessary expenses, to be paid on the certificate of the acting commissioner of the state house, fifteen hundred dollars.

State library. For the purchase of books and magazines for the state library, and binding, six hundred dollars.

Stationery, etc. For stationery for the use of the state departments, including printing paper, and other articles necessary for the use of the general assembly, supreme court, and state officers, thirty thousand dollars.

Distribution of laws, etc. For the distribution of laws and journals, and legislative and executive documents, two thousand dollars.

Seals and presses. For seals and presses to be furnished to counties, one hundred dollars.

Printing. For payment for printing for the state and executive departments, and of the laws, journals, documents, reports, and other work ordered by the general assembly, done in accordance with the laws of the state, sixteen thousand dollars.

Folding, stitching and binding. For payment for folding, stitching and binding for the state and executive departments, and of laws, journals, documents, reports, ordered by the general assembly, and other

necessary work done in accordance with the laws of the state, thirteen thousand dollars.

Care of legislative halls.

For taking care of and putting in order legislative halls, to be expended under the direction of the janitor, two hundred dollars.

Fuel.

For the purchase of fuel for the departments of state, five thousand dollars.

Gas.

For payment to the Columbus gas light and coke company, for gas to light the state house, two thousand dollars.

Messenger of supreme court.

For compensation, including arrearages, to the messenger to the supreme court, at the rate of two dollars per day, to be paid on the certificate of the chief justice, eight hundred dollars.

Crier.

For compensation to the crier of the supreme court, to be paid on the certificate of the chief justice, five hundred dollars.

Mileage of county treasurers.

For the payment of mileage of county treasurers in traveling to and returning from the seat of government in making their semi-annual settlements with the auditor of state, for the years 1858 and 1859, eighteen hundred dollars.

Artesian well.

For the continuation of the work on the artesian well, to be expended as heretofore provided, two thousand dollars.

O. S. Reports.

For the purchase of the "Ohio state reports," five hundred sixty dollars.

Law library.

For the purchase of books for the law library, to be expended under the direction of the supreme court, one thousand dollars, to be paid on the certificate of the chief justice.

Sustaining U. S. prisoners.

For payment of costs for sustaining United States prisoners. under the act passed December 20, 1806, seven hundred dollars.

State board of equalization.

For payment of per diem and mileage of members of the state board of equalization, blank books for records of appraisers, and other necessary expenses, twelve thousand dollars.

State board of agriculture.

For the state board of agriculture, being proceeds of show licenses and escheated lands, the sum of two thousand nine hundred and ninety-nine dollars and forty-one cents.

Furniture for comptroller's office.

For furniture for the office of comptroller of the treasury, four hundred dollars.

Lewis Lille for safe and lock.

For payment to Lewis Lille, for an iron safe and lock for the office of the commissioners of the sinking fund, six hundred and forty-six dollars ten cents.

Miles Greenwood's claim.

For payment to Miles Greenwood, to be received by him in full for his claim against the state for heating apparatus, labor and materials, for the central Ohio lunatic asylum, four thousand four hundred and four dollars three cents.

John E. Everlin.

For payment of John E. Everlin, for balance due him for collecting and preserving, and storing public arms, fifty-eight dollars.

James J. Park.

For payment to James J. Park, for labor, money and materials, by him furnished for the use of the state, in keeping in repair the "Western Reserve and Maumee road,"

from April 15, 1857, to May 1, 1858, to be received by him as payment in full of all claims against the state prior to said May 1, 1858, two thousand one hundred fifteen dollars twenty-three cents.

Certificate in favor of S. Spink.

To pay the certificate of Wm. H. Gibson, late treasurer of state, in favor of S. Spink, treasurer of Wood county, fifteen dollars ninety cents.

Certificate in favor of D. Yarnell.

To pay the certificate of Wm. H. Gibson, late treasurer of state, in favor of D. Yarnell, treasurer of Henry county, four hundred and fifty dollars.

Overdraft on Piqua Branch Bank.

To pay over-draft of Wm. H. Gibson, late treasurer of state, on the Piqua Branch Bank, four hundred forty dollars eight cents.

Interest due banks.

To pay balance of interest due banks on money advanced by them to the state, in the year 1857, five hundred dollars.

William Egry's claim.

For the payment of the claim of William Egry, for damages sustained by him in the erection of the southern Ohio lunatic asylum, and the destruction by the sewerage thereof of a stream of water passing through his lands, to be received by him in full for all claim for such damages, six hundred dollars.

John W. Kees' claim.

For payment to John W. Kees, to be received by him as satisfaction in full of his claim against the state for a balance on account of a contract for a portion of the state printing in the year 1854, eleven hundred forty-nine dollars and fifty cents.

John Green's claim.

For payment to John Green, to be received by him in full satisfaction of his claim for the plumbing of the northern Ohio lunatic asylum, twelve hundred and seventeen dollars and fifty-seven cents.

Geo. Worthington & Co's claim.

For payment to George Worthington & Co., to be received by them in full satisfaction of their claim against the state for the plumbing of the northern Ohio lunatic asylum, four hundred eighty-four dollars four cents.

John C. Miller's services.

To pay John C. Miller his expenses, and for services as clerk of the house of representatives, prior to his resignation as such clerk, twenty-five dollars.

Lewis Baker's services.

To pay Lewis Baker his expenses, and for services as clerk of the house of representatives, previous to his resignation as such clerk, twenty-five dollars.

Wm. Russell West's claim.

To pay William Russell West the balance due him as salary as architect of the state house, two hundred dollars; and his compensation and expenses in attending upon the commission of architects to examine the state house, fifty dollars.

C. H. Sargent, for charges.

For payment to C. H. Sargent, for charges paid for transportation, safe keeping and distribution of public arms, one hundred and eighty dollars and thirty-nine cents.

Wm. Childs, for storage.

To William Childs, for storage of public arms, certified by the quarter master general, one hundred dollars.

J. H. Smith, costs.

To J. Haddock Smith, clerk of the court of common pleas of Franklin county, the sum of two hundred and thirty-four

dollars eighty-nine cents, for the payment of costs in the following cases, viz: H. McCallum vs. the State, $13 23. The State vs. Miles Greenwood, $12 92. Same vs. Wallace Sawyer et al, $14 48. Same vs. Bliss & Sullivant, $17 27. Same vs. E. N. Sill, $21 47. Same vs. Spencer et al, $22 96. Same vs. Bates, Medary et al, $30 66. Same vs. Bates & Ridway et al, $29 56. Same vs. Hall, Yontz et al, $26 46. Same vs. Daniel Beckel, $25 02. Same vs. Hall and Reed, $21 44.

Charles Rule's claim.

To pay Charles Rule his claim against the state in consequence of the abrogation, by the state house commissioners, of alleged contracts dated June 9, 1854, and May 9, 1855, respectively, for furnishing marble tileing, ballusters and hand rails for the state house, to be received by said Rule in full of his claim against the state on account of the same, two thousand ten dollars sixty-nine cents.

Thatcher Lewis claim.

To pay Thatcher Lewis his claim against the state, as adjusted, for services performed and work done in making fences and improvements of grounds at the central Ohio lunatic asylum, eight hundred dollars.

Daniel B. Woods' claim.

To pay Daniel B. Woods, in full of his claim for services and expenses as commissioner of the two new lunatic asylums, seventy-five dollars sixty cents.

Kennon, Caldwell and Medbury's expenses.

To pay William Kennon, William B. Caldwell and Asa L. Medbury their expenses while at and traveling to and from the seat of government, as commissioners of appointment under the act of April 12, 1858, two hundred dollars.

A G. Thurman's professional services.

To pay A. G. Thurman for professional services in the case of the state of Ohio vs. William Kennon and others, upon quo warranto in the supreme court, one hundred dollars.

Swayne and Baber's.

To pay Swayne & Baber for professional services in the case of the state of Ohio vs. William Kennon and others, upon quo warranto in the supreme court, one hundred dollars.

R. B. Warden's.

To pay R. B. Warden, for professional services in assisting the attorney general in the case of the state of Ohio vs. William Kennon and others, upon quo warranto in the supreme court, one hundred dollars.

Expenses of senate com. in visiting House of Refuge and Reform Farm.

For payment of the expenses of senate committee in visiting the "House of Refuge," in Hamilton county, and the "Ohio State Reform Farm," in Fairfield county, in 1858 and 1859, fifty dollars.

Treasury commission.

For the payment of the per diem and expenses of the commission created by the act of April 12, 1858, to examine into the condition of the treasury, &c., three thousand dollars.

Certificate in favor of J. M. Russell.

For the payment of the certificate of the late treasurer of state in favor of J. M. Russell, treasurer of Paulding county, dated May 28, 1857, one hundred ninety-eight dollars and ninety cents.

O. L. Ins. & Tr. Company. To pay the balance due the Ohio Life Insurance and Trust Company (see report of Messrs. Edgerton, Morgan and Reemelin, page 197,) the sum of forty-four thousand dollars, and to pay any further sum that may be found due to said Trust Company on examination and adjustment of the accounts by the commissioners of the sinking fund an additional sum not exceeding ten thousand dollars; provided, that no payment shall be made of any sum to said Trust Company unless the commissioners of the sinking fund shall be satisfied that the same is justly due.

Proviso.

Cont. expenses of attorney general. For the contingent expenses of the attorney general, five hundred dollars.

Attorney general and assistant counsel. To pay the attorney general and the assistant counsel employed by him for defending suits, under the provisions of the act for the liquidation of certain claims against the state, passed April 17, 1857, twelve hundred dollars.

G. W. Heyl's services. For payment to G. W. Heyl, for fitting keys, repairs of locks, chairs, desks and other furniture in senate chamber, fifteen dollars and three cents.

G. W. Heyl's bill. For the payment of George W. Heyl, the amount of his bill for work done, repairing locks and chairs in legislative hall of house, six dollars and ten cents.

Shoedinger & Brown. For the payment of Shoedinger and Brown, the amount of their bill for articles furnished legislative hall, eight dollars and twenty-five cents.

W. A. Adams. To pay W. A. Adams the balance due him on account of the monument of Simon Kenton, ten dollars and sixty-six cents.

Night watch of state house. To pay expenses of night watch of the state house, to be appointed by the treasurer of state, five hundred and fifty dollars.

Wolf scalps. To pay for certificates of wolf scalps, three hundred dollars.

Safe for Att'y General. For payment of a fire and burglar proof safe for the office of the attorney general, six hundred and fifty dollars.

Receiver of Seneca county bank. To pay the expenses of the receiver in making a thorough search after the assets of the Seneca County Bank and such other inquiries as shall be proper to be made, the sum so advanced by the state to be returned into the treasury by the said receiver out of the first moneys realized from the assets of said bank, so with interest recovered, fifteen hundred dollars.

Expenses of House com. in visiting asylums. For the payment of the expenses of the committee of the house of representatives in making the annual visits to the southern and northern Ohio lunatic asylums, payable upon the order of the chairman of the said committee, one hundred and five dollars

—and reform farm. For the payment of the expenses of the committee of the house of representatives in making the annual visit to the state reform farm, in Fairfield county, thirty-five dollars.

For the payment of the expenses of the senate committee on benevolent institutions in visiting the several benevolent institutions of the state, in the years 1858 and 1859, payable on the order of the chairman of said committee, seventy-two dollars. Expenses of Senate com. in visiting benevolent institutions.

For the payment of the expenses of the committees on claims of both houses of the general assembly in visiting and inspecting the northern Ohio lunatic asylum buildings, payable on the order of the chairman of said committee, twenty-two dollars ninety cents. Expenses of com. on claims.

For the payment of A. B. Newburgh for services of the joint select committee of the general assembly to examine the claim of Samuel Medary, for printing for the legislature of 1852 as certified by said committee, one hundred and sixty dollars. A. B. Newburg's services.

For the payment to J. D. Osborne for carpet and other furniture for the office of the comptroller of the treasury, forty-one dollars twenty-four cents. J. D. Osborne for carpet &c.

For carpet and other furniture for the office of the attorney general, ninety-eight dollars ninety-nine cents. Carpet &c. for att'y general.

For green cloth and other materials to furnish the supreme court room, forty dollars thirty-two cents. Cloth &c. for superior court room.

For the payment to Solomon Buck for a clock for the senate chamber and repairing the same, five dollars.

For payment to Shœdinger & Brown for hat rack and book case for the office of the commissioners of the sinking fund, twenty-one dollars. Shoedinger & Brown hat rack and book case.

For payment to Stone, O'Harra & Co. for materials for towels and making same for the state house, fourteen dollars twenty-five cents. Stone, O'Harra & Co. towels.

For payment to J. M. & W. Westwater for chandelier for the office of the adjutant general, thirty-two dollars. Westwater for chandelier.

For payment to T. Brotherlin & Halm for furniture for the supreme court room, senate chamber, hall of the house, comptroller's and adjutant general's offices, two hundred fifty-seven dollars fifty-six cents. Brotherlin & Halm for furniture.

For the payment of the expenses of the joint select committee of both houses appointed to investigate the charity school of Kendall, nine dollars. Expenses of com. on Kendall school.

For payment to A. W. Dalton from January to April 4, 1859, twenty-five dollars. A. W. Dalton.

For the payment of John H. Stineman of Auglaize county, ninety-seven dollars and seventy-five cents, for the purchase money and interest of one-half of the fractional west half of N. E. fractional quarter of section two, town eight, S. R. four east, sold by the state to him, and for which the state had no title. J. H. Stineman.

For payment of special examiner appointed by the auditor and comptroller to examine and inspect the offices of canal collectors, receivers and other state officers, twelve hundred dollars. Spec'l examiner of offices of canal collector.

Jos. M. Burke for transportation of arms.

For payment to Joseph W. Burke, for transportation of arms, under the provision of the 45 section of the act to organize and discipline the militia and volunteer militia, passed March 28, 1857, thirty-three dollars three cents.

Dr. Ack'ey's] claim.

For payment to Dr. H. A. Ackley in full, for his claim on the state for services and expenses as commissioner of the two new lunatic asylums, also for services and expenses when attending the year 1856, as a witness before a select investigating committee of the house of representatives, and also for a balance due James C. Pines for like services before said committee, and as clerk to the commission duly assigned to the said Ackley, four hundred twenty-seven dollars ninety-three cents.

S. Medary's claim.

For payment to Gov. Samuel Medary, his claim in full against the state, for printing performed by him in the year 1852, four thousand two hundred and thirty-two dollars and fifty-six cents.

Expense of examining Derby and Co's claim.

For the payment of the expenses of the committee on common schools and school lands, of the senate, in going to Cincinnati to examine the claim of H. W. Derby & Co. against the state of Ohio, six dollars.

Geo. W. Heyl's services.

For payment to Geo. W. Heyl for fitting keys and locks to desks and other repairs for house of representatives, twenty-three dollars.

L. L. Rice's claim.

For payment to L. L. Rice, balance due him for recording 241 pages of field notes under the direction of the secretary of state, two hundred five dollars ten cents.

E. S. Brooks for rent and storage.

For payment to E. S. Brooks for rent and storage of public arms, certified by the quarter master general, two hundred eighty-seven dollars fifty cents.

There is hereby appropriated out of any money in the treasury, received from the Cincinnati, Columbus and Wooster turnpike road company on account of the state's interest in said road, or out of the first sufficient money that shall be received from such source, or from the first sufficient money received from the sale of the stock now owned by the state in said road, the sum of thirteen hundred dollars.

Samuel Perrin's claim.

To pay the claim of Samuel Perrin, and such payment shall be deemed in full of all claims of the said Perrin for labor by him performed and material furnished on said turnpike road, and an act entitled "an act for the relief of Samuel Perrin," passed April 12, 1858, is hereby repealed.

D. Richmond & Co's claim.

For payment to D. Richmond & Co. in full of their claim for a balance due them for the construction of the southern Ohio lunatic asylum and all the buildings connected therewith as well as for all extra work connected with said asylum, ten thousand one hundred and twenty-five dollars.

Felch & Riches for engraving.

To pay Felch & Riches, for engraving by them performed by order of the acting commissioner of the reform school, one hundred and fifty dollars.

Richard Page or services.

For the payment of Richard Page for services rendered in

making examination of certain terrace under resolution of this house, and making report of same, ninety dollars.

L. W Jaeger. And for the payment of L. W. Jaeger for like services rendered under same resolution, forty dollars.

J. H. Branch, F. Beck, Charles Snyder and Albert McCormick for extra services. For the payment of J. H. Branch, sergeant-at-arms, for two days extra services rendered in preparing the hall of the house for the present session, eight dollars, and for the payment of F. Beck, assistant sergeant-at-arms, for like services, eight dollars, and for the payment of Charles Snyder and Albert McCormick, messenger boys, for like services, three dollars each.

Repair of state road. For repairing the state road near Logan, in Hocking county, as recommended by the board of public works, as per report to the senate of March 30, 1859, the sum of $900.

For the engraving and illustrations of the agricultural reports of the year 1858, the sum of five hundred dollars.

John Gander for expenses. To John Gander for expenses incurred by him in perfecting his title to the S. W. qr. sec. 3, town 2, S. range 6, E sold by the state to the grantor of the said John Gander, the title to which was defective, eighty-nine dollars forty cents.

John Gill's claim. For the payment of the claim of John Gill for balance due him for work on the northern lunatic asylum, six thousand nine hundred and forty-one dollars and eigty-three cents, to be paid as follows, as assigned by John Gill, viz: To Gaylord and Hammond, $500; to James F. Clark, $625; to Geo. Worthington, $1,000; to Mercian Voore, $250; the said John Gill, $4,566 83.

BENEVOLENT INSTITUTIONS.

CENTRAL LUNATIC ASYLUM.

Central lunatic asylum. For the payment of the salaries of the superintendent, assistant physician, steward and matron of the central Ohio lunatic asylum, three thousand two hundred dollars.

For the salary of the moral instructor of said asylum, two hundred dollars.

For provisions and necessary current expenses and repairs of said asylum, twenty-five thousand dollars. Provided that money shall not be drawn for the payment of a chaplain.

SOUTHERN LUNATIC ASYLUM.

Southern lunatic asylum. For payment of the salaries of the superintendent, assistant physician, steward and matron of the southern Ohio lunatic asylum, two thousand seven hundred dollars.

For the payment of the moral instructor of said asylum, and library, two hundred dollars.

For provisions and necessary current expenses of said asylum, seventeen thousand three hundred dollars.

For repairs and work-shop, two thousand dollars.

For abatement of nuisance caused by emptying from water-closets and gas works of said institution, one thousand dollars.

NORTHERN LUNATIC ASYLUM.

Northern lunatic asylum.

For the payment of salaries of the superintendent, assistant physician, steward and matron of the northern Ohio lunatic asylum, two thousand seven hundred dollars.

For the payment of the moral instructor of said asylum, two hundred dollars.

For provisions and necessary current expenses of said asylum, sixteen thousand three hundred dollars.

For the purchase money of two and two-thirds ($2\frac{2}{3}$) acres of land adjoining the grounds of the northern Ohio lunatic asylum, to be paid as soon as a good title is made to the state therefor, seven hundred dollars.

For securing windows and repairs, two thousand dollars.

Trustees of benevolent institutions.

For payment of expenses of trustees of benevolent institutions, three hundred dollars.

DEAF AND DUMB ASYLUM.

Deaf and dumb asylum.

For the salaries of the superintendent, steward, matron, physician and teachers of the Ohio institution for the education of the deaf and dumb, nine thousand dollars.

For provisions and necessary current expenses and repairs of the said asylum, seven thousand seven hundred and fifty dollars.

For bedsteads, bedding and mattrasses, one thousand dollars.

BLIND ASYLUM.

Blind asylum.

For the payment of the salaries of the superintendent, steward, matron, physician and teachers of the Ohio institution for the education of the blind, six thousand dollars.

For provisions and necessary current expenses and repairs of said asylum, seven thousand dollars.

ASYLUM FOR IDIOTS.

Asylum for idiots.

For the payment of salaries of the superintendent, other officers, and teachers of the Ohio state asylum for idiots, seventeen hundred dollars.

For provision and necessary current expenses of the said asylum, three thousand dollars.

Wages, rent, furniture and repairs, two thousand dollars.

STATE REFORM FARM.

State reform farm.

For the payment of the salaries of the officers of the state reform farm, three thousand five hundred dollars.

For provisions, furniture, clothing, lodging, school books for, and educating and training boys, eight thousand dollars.

For finishing three dwelling houses already erected, twelve hundred dollars ($1,200).

For fruit trees planted on said farm, one hundred dollars ($100).

For agricultural implements, three hundred dollars ($300).

For ox team and milch cows and other live stock, six hundred dollars ($600).

STATE HOUSE.

State house.

For finishing stairs in state house with marble hand-railing, four thousand eight hundred dollars ($4,800).

For finishing interior of dome and rotunda, thirteen thousand dollars ($13,000).

For trees, shrubbery, ornamenting grounds, five hundred dollars ($500).

For flagging main walks, one thousand dollars ($1,000).

For brick gutters, three hundred dollars ($300).

For lightning rods, four hundred dollars ($400).

Provided, that no part of the money hereby appropriated for the purpose of carrying on work on the state house or state house grounds, shall be expended for any other purpose than that for which the same is especially appropriated, but may apply any unexpended balance which may remain of any specific appropriation after the completion of the work for which it has been appropriated, to the completion of any unfinished work herein authorized to be done, when the specific appropriation for such unfinished work shall prove insufficient to its completion; and provided further, that no money appropriated for the new state house shall be expended in the payment of the salary of an assistant architect or draftsman, which offices are hereby abolished.

OHIO PENITENTIARY.

Ohio penitentiary.

For the payment of the salaries of the directors, warden, deputy warden, clerk, physician, moral instructor and assistant teachers of the Ohio penitentiary, four thousand five hundred and eight dollars ($4,508).

For the payment of guards and night-watch of the Ohio penitentiary, fifteen thousand six hundred and fifteen dollars ($15,615).

For the payment for provisions, clothing, repairs of all kinds, fuel, lights, hospital, and other necessary current expenses, for the Ohio penitentiary, forty-three thousand two hundred dollars ($43,200).

For the payment of costs of prosecution, conviction and transportation of convicts to the Ohio penitentiary, eighteen thousand seven hundred and fifty dollars ($18,750).

For allowance to discharged convicts, to pay their expenses to their homes, nine hundred dollars ($900).

For the purchase of books by the directors and warden for the use of the convicts, five hundred dollars ($500).

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To relieve the sureties of executors or administrators.

Proceedings by which sureties of executor or administrator may be released.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any surety of any executor or administrator of any deceased person at any time to make complaint to the proper probate court to be released from the bond with such executor or administrator, by filing his request therefor with the judge of said court, and giving at least five days notice in writing to such executor or administrator, when such court is of opinion there is good reason therefor, shall release such surety, and if such executor or administrator fail to give new bonds, as by such court directed, he shall be removed and his letters superseded, but such original surety shall not be released until such executor or administrator so gives bonds, and such original surety shall be liable only for the acts of such executor or administrator from the time of the execution of the original bond to the filing of the second bond; provided, that the costs of such release shall be paid by the surety applying to be released, unless it shall appear to the court that the administrator or executor is insolvent, incompetent, or is wasting the assets of the estate.

New bond.

The costs.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

Curwen's R. S. 2218.

Explanatory of an act entitled an act to amend section twenty-three of an act entitled an act to provide for the organization, supervision and maintenance of common schools, passed March 11, 1853, passed March 12, 1859.

Levy of sub-district tax to complete &c., school house.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the provisions of the act entitled an act to amend section twenty-three of an act entitled an act to provide for the organization, supervision and maintenance of common schools, passed March 11, 1853, passed April 12, 1858, shall be so construed as to authorize the levy of a tax upon any sub-district for the purpose of completing the erection or repair of any school house in such sub-district which was in process of erection or repair at the time said act, passed April 12, 1858, took effect, or for paying debts incurred therefor.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To repeal an act passed April 11, 1856, entitled "an act supplementary to an act entitled 'an act to authorize free banking in Ohio,'" passed March 21, 1851.

Curwen's R. S. 1609.
53 Laws, 135.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act passed April 11, 1856, entitled "an act supplementary to an act entitled 'an act to authorize free banking in Ohio,' passed March 21, 1851," be and the same is hereby repealed: provided, that such repeal shall in no wise affect any liabilities, civil or criminal, incurred under the said sections so repealed, nor any proceedings under them.

Act repealed.

Saving clause.

SEC. 2. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

Regulating the mode of administering assignments in trust for the benefit of creditors.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That when any person shall make an assignment to a trustee, of any property, money, rights or credits, in trust for the benefit of creditors, it shall be the duty of said trustee, within ten days after the delivery of the assignment to him, and before disposing of any property so assigned, to appear before the probate judge of the county in which the grantor resided at the time of executing the said assignment, produce the original assignment or a copy thereof, cause the same to be filed in the probate court, and enter into an undertaking in such sum, with such sureties as shall be approved by the said judge, conditioned for the faithful performance by the said trustee of his duties according to law.

Duty of assignee as to filing assignment in probate court and entering into undertaking.

SEC. 2. If any assignee as aforesaid shall not, within ten days after his nomination to such trust, comply with the provisions of the first section of this act, it shall be the duty of the probate judge, on application of the assignor or any one or more of his creditors, to remove the said assignee and appoint another in his stead, who shall thereupon immediately comply with the provisions of the foregoing section; and the probate judge shall make and enforce all necessary orders to put the said trustee so appointed, into possession of any property, money, rights, or credits belonging to the assignor at the time he made said assignment.

His removal, upon failure so to do, by probate judge.

SEC. 3. Every assignee within the provisions of this act shall, within thirty days after entering upon the discharge of such trust, unless for good cause shown the probate judge shall allow a longer time, file in the office of the probate judge an inventory verified under oath of the property,

Inventory to be filed by assignee.

money, rights and credits of the said assignor which shall have come to his possession or knowledge; and the property and assets comprised in the inventory shall be appraised by three suitable, disinterested persons, who shall be appointed by the probate judge and sworn to a faithful discharge of their trust, and if any part of such estate or effects be in any other county, any disinterested justice of such county may appoint the appraisers of the estate and effects therein.

Appraisement.

Schedule of debts and liabilities.

SEC. 4. Every assignee shall also, at the same time when he files said inventory file a schedule verified under oath of all debts and liabilities of the assignor, within his knowledge, and shall cause notice to be given in some newspaper of general circulation within the county, for three successive weeks of his appointment as assignee, and requiring creditors to present their claims.

Notice of assignee's appointment and to creditors.

Conversion of assets into money and sale of the property —notice of sale.

SEC. 5. The assignee shall proceed at once to convert all the assets received by him into money, and to sell the real and personal property assigned, either for cash, or upon such other terms as the probate judge in his discretion may order, at public auction, at such time and place as may be designated in notice given by advertisement in some newspaper of general circulation within the county, for six successive weeks and of which sale due return shall be made to the judge, but all sales of real estate shall be made at not less than two-thirds the appraised value thereof, being subject to re-appraisement as upon executions at law, and such sales shall be set aside or confirmed as the probate judge shall order, and if confirmed, deeds shall be made to the purchasers, conveying the title free from all liens on the same for all debts due by the assignor.

Report of claims presented and disallowed—proceedings &c.

SEC. 6. The assignee shall, within six months after his appointment, and sooner if required by the probate judge, report what claims, if any, against the assignor have been presented, not included in the schedule filed, and what claims, if any, he is unwilling to allow; and thereupon, notices of such disallowance shall be served upon the claimants, as in case of a summons in a civil action, or by advertisement as to non-residents, as allowed by the code of civil procedure in other cases; and such claimants shall be required within thirty days after such notice, to commence an action against said assignee, in some court of competent jurisdiction within the county, to enforce the claim; creditors shall present their claims within six months after the publication of the notice provided for in section four of this act, to the assignee for allowance, and the assignee shall endorse his allowance or rejection thereon, and claimants whose claims are rejected shall be required to bring suit against the assignee to enforce such claims within thirty days after the same shall have been rejected, in which, if he recover, the judgment shall be against the assignor, that he allow the same in settlement of his trusts, with or without costs as the court shall think right: provided, however, that the assignor may make any

Presentation of claims.

defence to such action that the assignee might have made to a suit instituted against him before the assignment for the same cause of action.

Report of collections, etc.

SEC. 7. The assignee shall also at the same time, and as often afterwards as may be required, report the sums collected by including those arising from sales, together with the amount remaining uncollected, and the amount thereof which in his opinion may be thereafter collected.

Disallowance of claims on request, and undertaking of assignee or creditor.

SEC. 8. If the assignee or creditor shall file in the probate court a written requisition on the assignee to disallow any claim or claims presented, which he has not reported as disallowed, and shall enter into an undertaking with surety or sureties to be approved by the probate judge, conditioned to pay all the costs and expenses of contesting the same, such claim or claims shall be ordered to be disallowed, and the same proceedings shall be had as required in other cases of disallowance by the foregoing section.

Payment of incumbrances and liens.

SEC. 9. The probate court shall order the payment of all incumbrances and liens upon any of the property sold, or rights and credits collected out of the proceeds thereof, according to priority.

The declaring and payment of dividends.

SEC. 10. At the expiration of eight months from the appointment and qualification of the assignee, and sooner if it can be done with regard to the rights and interests of all parties, and as often afterwards as may be deemed proper by the probate judge, a dividend shall be declared payable out of the assets of the assignors, applicable to the payment of non-preferred claims and balances of claims equally amongst all the creditors entitled in proportion to the amounts of their respective claims thereon, including those disallowed as to which the claimant has begun proceedings to establish the same, as required in the sixth section of this act; of the making of which dividend, and of the time and place of payment thereof, notice shall be given by advertisement in a newspaper, and in such other way as the probate judge may direct; of the payment of which dividends and those remaining uncalled for and unpaid at that time, report shall be made within sixty days after the day fixed for the payment of the same. The probate judge shall then cause a new notice to be given to the owners of the unpaid dividends, by publication and such other mode as he shall direct; and if the same are not demanded within twelve months thereafter, the same shall be divided pro rata among the other creditors until they are paid in full, and the remainder, if any, to the assignor or his legal representatives. The dividends reserved for claims disallowed, where the proceedings to enforce their allowance have been commenced, shall be held until said proceedings have terminated, when they shall be paid, if the allowance of the claim has been ordered, upon the same; otherwise, they shall be distributed pro rata amongst other creditors not paid in full, or refunded to the assignor, as the case may require.

Costs and expenses of the trust.

SEC. 11. Before any dividend is declared, the costs and expenses of administering the trusts of the said assignment, including a reasonable compensation to the said assignee, and his counsel fees and other expenses, as may be allowed by the probate judge, shall be paid out of the trust fund.

Examination of assignor as to the honesty of his assignment and conduct.

SEC. 12. In case the assignee or any creditor have reason to believe, and make affidavit thereof, that the assignor has not surrendered all the property and effects embraced in the assignment; or that he has property or effects which he conceals and refuses to apply to the payment of his debts; or that he has conveyed or assigned any property or effects for the purpose of hindering, delaying or defrauding his creditors, or that he is about to do so; or that he has converted any property and effects into moneys and credits for the purpose of putting them beyond the reach of his creditors, or the jurisdiction of the courts of the county, or is about so to do, the probate judge shall cause him to appear in open court or before a referee and answer under oath all interrogatories concerning the same, and may make all necessary orders upon proper parties to prevent further transfers and changes in any property and effects which he thinks belong to the debtor and should be applied to the payment of his debts; but no such order shall have the effect to alter the title or possession of any property or effects claimed or possessed by any third person.

Order of court and effect thereof.

Affidavit to be filed with claim before allowance or payment.

SEC. 13. Every person presenting and filing a claim against the estate of the debtor, and before the same shall be allowed or any payments made thereon, shall make and file an affidavit setting forth that the said claim is just and lawful, what collateral or personal security, if any, the claimant holds for the same, or that he has no security whatever, and the assignee or any creditor shall have the right to examine the claimant under oath touching any such collateral or other security, or any other matter relating to said claim, within such time and under such regulations as shall be prescribed by the probate judge.

Power of probate judge to remove assignee and enforce orders, etc.

SEC. 14. The probate judge shall have the right at any time to remove any assignee for good cause and to appoint another in his stead, and to make and enforce all orders necessary to cause the property and effects to be delivered to the new trustee, and to require new undertakings with additional sureties, and an application made by any surety or sureties of any assignee, may, if satisfied of the reasonableness of such application, discharge such surety or sureties from further liability, and require that said trustee shall be removed or give new sureties.

Additional sureties.

Discharge of sureties.

Property exempt from debts.

SEC. 15. Nothing in this act shall be so construed as to require any property exempt from execution to be delivered up for payment of debts, or to authorize any property belonging to the wife before marriage, and not converted to the husband's use, to be taken in payment of the debts of her husband.

Assignments in contemplation of insolvency to inure to benefit of all the creditors.

SEC. 16. All assignments in trust to a trustee or trustees, made in contemplation of insolvency, with the intent to prefer one or more creditors, shall inure to the equal benefit of all creditors in proportion to the amounts of their respective claims, and the trusts arising under the same shall be administered in conformity with the provisions of this act.

So also as to transfers, &c., to hinder, delay or defraud creditors.

SEC. 17. All transfers, conveyances or assignments made with the intent to hinder, delay or defraud creditors, shall inure to the equal benefit of all creditors in proportion to the amounts of their respective claims, and the probate judge, after any such transfer, conveyance or assignment shall have been declared by a court of competent jurisdiction to have been made with the intent aforesaid, on the application of any creditor, shall appoint an assignee according to the provisions of this act, who, upon being duly qualified, shall proceed by due course of law to recover possession of all property so transferred, conveyed or assigned, and to administer the same as in other cases of assignments to trustees for the benefit of creditors.

Appointment of assignee.

Scope of application of this act.

SEC. 18. This act shall apply to all assignments made by any partnership, joint stock association or body corporate, and as far as practicable to all trustees of trusts for the benefit of creditors heretofore appointed, and all trustees appointed and acting under the provisions thereof shall have power, by the direction of the probate judge, to compound and compromise any debt, claim or demand on behalf of his assignor that in his opinion cannot be otherwise recovered or collected.

Power of trustees under it.

Curwen's R. S. 2239.
Swan's R.S. 468

SEC. 19. The act entitled "an act declaring the effect of assignments to trustees in contemplation of insolvency," passed March 14, 1853, be and the same is hereby repealed.

Probate judge's fees.

SEC. 20. The probate judge shall be entitled to the following fees for services performed under this act: for filing copy of assignment, schedule and inventory, ten cents each, and for all other papers, five cents each; for appointing or removing any assignee, one dollar; for hearing and deciding applications by an assignee for the benefit of this act, two dollars, and for all other services performed under this act, the same compensation as is provided by law for like services in the settlement of estates of deceased persons.

[illegible] assignments heretofore made.

SEC. 21. In all cases of assignments made before the passage of this act, and where no final settlement and distribution has been made, the probate judge of the proper county shall have the power, on the application of any creditor of the assignor, to issue a citation against such assignee, requiring him to appear before such probate judge on the day named in such citation, to show cause why he should not give bail for the execution of his trust according to the provisions of this act; and such probate judge on good cause shown may require such assignee to give bail according to the provisions of this act; and in case such

assignee shall fail to appear as required by such citation, or shall fail to give bail within the time ordered by such probate judge, such probate judge shall remove him and appoint another assignee, and after the giving bail by any assignee, as provided in this section, the same proceedings shall be had as provided in this act in case of assignments after the passage of this act.

SEC. 22. This act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To provide for the appointment of a chief clerk in the office of comptroller of the treasury.

Appointment and term of chief clerk.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the comptroller of the state treasury may appoint a chief clerk whose appointment shall be evidenced by a certificate thereof under the official seal of the comptroller, and shall continue in office during the pleasure of the comptroller.

His bond.

SEC. 2. That the chief clerk previous to entering on the duties of his appointment, shall give bond, with two or more sureties to the acceptance of the comptroller, in the penal sum of ten thousand dollars, payable to said comptroller, and conditioned for the faithful performance of the duties of his office.

His duties.

SEC. 3. That in case of the absence or inability of the comptroller, the chief clerk shall do and perform the several duties required of the comptroller.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To authorize county commissioners to alter or change the boundaries of election precincts.

Curwen's R S 2269.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of any county in this state, upon presentation to them at any regular session of their board, of a petition signed by not less than twelve legal voters of any voting precinct in any township therein, that any line or lines bounding said precinct be changed or altered, upon being satisfied that the prayer of said petition is just and reasonable, and that due notice thereof has been given for twenty days by posters either written or printed in three public places in each precinct to be affected by such change, grant the prayer of such petition by an order that such precinct be changed in accordance therewith.

Changes of election precincts—how made.

SEC. 2. This act to be in force on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To amend sections seven, eight, nine and ten of an act entitled an act to relieve the district courts, and to give greater efficiency to the judicial system of the state, passed April 12, 1858.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section seven of an [act] entitled an act to relieve the district courts, and to give greater efficiency to the judicial system of the state, passed April 12, 1858, be so amended as to read as follows: Section 7. That the judges of the court of common pleas in each and every common pleas district in this state are hereby authorized, and it shall be their duty, to fix permanently the times for holding the courts of common pleas and district court, in each and all of the counties in their respective districts, in the manner following: The said judges or a majority of them, in each common pleas district, on or before the first day of November in every year, shall issue their written order to the clerk of the court of common pleas of each and every county in their said district, specifying precisely the commencement of the term of the district court, and of the several terms of the court of common pleas in said county, and in all the counties in said district: Provided, that not less than three terms of the common pleas court shall be appointed for any county for which three terms are now by law provided.

55 laws, 81.

As to fixing terms of district and common pleas courts.

Judges order as to district courts.

Proviso.

List of terms of courts to be furnished to secretary of state—and his duty.

SEC. 2. That section eight of the above recited act be so amended as to read as follows: Section 8. That immediately after the times of the terms of the common pleas and district courts have been fixed as aforesaid, an accurate list of the same shall be furnished to the secretary of state, and the secretary of state shall forthwith thereafter cause copies of the list of the times of holding the common pleas and district courts so fixed for each judicial district to be made out, and one copy thereof to be forwarded to each judge of the court of common pleas of the district.

Judges order as to terms of courts.

SEC. 3. That section nine of said act be so amended as to read as follows: Section 9. That the judges of the court of common pleas or a majority of them in each common pleas district, on or before the second Monday in January of each year, shall issue their written order to the clerk of the court of common pleas, of each and every county in their said district, specifying precisely the commencement of the terms of the common pleas and district courts.

Clerks duty as to entry of orders.

SEC. 4. That section ten of said act be so amended as to read as follows: Section 10. Whenever said order so issued shall have been received by the clerk of the court of common pleas in any county, he shall immediately enter the same upon the journals of the court of common pleas and district courts in his said county in the same manner as other entries when required are made upon said journals during vacations of said courts, and said entries shall be full and sufficient evidence as to the legal terms for holding said courts as therein ordered. The said clerk shall also cause a copy of said order certified by him, to be published for four consecutive weeks in one or more newswpapers of general circulation in his said county. The first publication of the same shall be in the first week in the month next ensuing the date of said order.

Effect of entry.

Publication of order.

Judges of supreme court to divide the state into five districts, &c.

SEC. 5. That on or before the first Monday of October of each year, the judges of the supreme court shall divide the state into five districts, and assign to each member of the court one of said districts, in which district so assigned, it shall be the duty of the judge to whom the same is assigned, to attend at the sessions of the district court therein.

Sections repealed.

SEC. 6. That the said original sections seven, eight, nine and ten of said act are hereby repealed, and this act shall take effect upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April, 6 1859.

AN ACT

Supplementary to "an act to provide for the creation and regulation of incorporated companies in the state of Ohio," passed May 1, 1852. Curwen's R. S. 1877.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever any number of persons, as required by the first section of the act to which this is supplementary, associating to form a company for the purpose of improving any stream of water, or any part thereof, heretofore declared navigable by any of the laws of the state of Ohio, they shall under their hands and seals, make a certificate which they shall specify as follows: First. The name assumed by such company, and by which it shall be known. Second. Commencement and termini of said improvement, and the counties through which the same shall pass. Third. The amount of capital stock necessary to make said improvement, not less than ten thousand dollars, and the amount of each share. Such certificate shall be acknowledged, certified, and forwarded to the secretary of state, recorded and copied in the same manner as is provided in the second section of the act to which this is supplementary, and said certificate shall also be recorded in the recorder's office of the county in which such company shall have its principal office for doing business, and when so incorporated, are hereby authorized to make said improvement by the cleaning out of said stream or streams, erection of dams, locks, and all other things necessary for said improvement, as may be named in their certificate of incorporation, and by the name and style provided in said certificate shall be deemed a body corporate, with succession, and they and their associates to have the said general powers as is provided in the third section of the act to which this is supplementary.

Company to improve navigable streams.

Articles of association.

—Its record.

General powers.

SEC. 2. That the corporators named in said certificate shall open the books of the said company for subscription to the capital stock of said company, and so soon thereafter as fifty per cent. of the capital shall be subscribed [and] paid in money, they shall call a meeting of the persons who have subscribed stock as aforesaid, and shall then and there proceed to elect five directors, who shall be stockholders in the said company, who shall hold their office as such directors for one year from and after said election, and until their successors are elected and qualified, one of whom shall be president, and one treasurer and one secretary, to be named on the tickets when voted for by the stockholders as aforesaid. Each stockholder shall be entitled to one vote for each and every share of stock that he may own, and after the first election no stockholder shall be entitled to a greater number of votes than the number of shares he may have paid into the said company.

Subscription books, election of directors, &c.

President, treasurer and secretary.

SEC. 3. That the treasurer of said company, before entering upon the duties of his office, shall enter into a bond with good and sufficient security, to be approved of by said board

Bond of treasurer.

of directors, payable to the said company, conditioned for the faithful performance of all and singular the duties of his said office, and that he will well and truly account for and pay over to the said company all moneys and property that shall from time to time come into his hands by virtue of his said office, and that he will use due and proper diligence to collect all moneys and demands that from time to time shall be due and owing to the said company which shall be his duty by law to collect.

President's duties.

SEC. 4. The president shall preside at all meetings when not otherwise incapacitated, in which case, or in case of his absence, the board of directors shall choose a president from among their number, who shall perform the duties of president at such meeting, and perform such other duties as may from time to time be pointed out by the by-laws and rules of the said company.

Secretary's duties.

SEC. 5. The secretary shall keep a record of all meetings of the board of directors and other proceedings of said company not required to be performed by any other of the officers of said board, and perform such other and further duties as may be assigned him from time to time by the rules and by-laws of the said company.

By-laws and rules.

SEC. 6. That the said company shall have power from time to time, at any regular meeting of the board of directors, to make, alter or change such by-laws and rules for the government of the said company.

Rates of toll.

SEC. 7. That the directors of the said company shall have power to prescribe the rates of toll said company shall be entitled to receive for the passage of any boat or other water craft of any lock or locks upon said improvement, or for the running of any boat or other water craft between the locks on said improvement.

Compensation of officers.

SEC. 8. That the compensation of the president and other officers of such company shall be regulated and fixed by the rules and by-laws of such company from time to time.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To amend the twenty-second section of an act to prescribe the duties of the attorney general.

Swan's R. S., 53; Curwen's R. S., 1875.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section twenty-two of an act entitled "an act to prescribe the duties of the attorney general;" passed May 1, 1852, be amended so as to read as follows: Sec. 22.

No undertaking or security shall be required on behalf of the state or of any officer thereof in the prosecution or defense of any action, writ or proceeding; nor shall it be necessary to verify the pleadings on the part of the state or officer aforesaid in any such action, suit or proceeding.

No security required in any action, &c., by state or officer, and verification of pleadings not required.

SEC. 2. Original section number twenty-two of the act aforesaid is hereby repealed.

Sec. repealed.

SEC. 3. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To amend section eight of an act entitled "an act prescribing the duties of supervisors, and relating to roads and highways," passed February 13, 1853.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section eight of the above recited act be so amended as to read as follows: Sec. 8. That the trustees of the townships shall, on the first Monday of March annually, divide their respective townships into suitable and convenient road districts, and if the same have not heretofore been so divided, cause a brief description of the same to be entered on the township records, and also cause each supervisor to be furnished with a rough plat of his district, and in case any public road is or shall be established as a part of the line or boundary of any township, the trustees in any adjoining township shall meet at some convenient place, as soon after the first Monday of March as convenient, and apportion such road or roads between the two townships as justice and equity may require, for the purpose of opening and improving the same, and the supervisors and inhabitants of each township shall be bound to work on said road or roads accordingly. Provided, however, no part of any territory lying within the limits of any incorporated village, or city of the second class, shall be included within any such road district.

Curwen's R. S., 2132.

Townships to be divided into road districts.

Proviso.

Sec. repealed.

SEC. 2. Original section eight is hereby repealed, and this act to take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

To amend an act entitled an act to establish a code of civil procedure.

Swan's R. 8.678. Curwen's R. 8. 2007.

The notice of the sale of lands.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section 436 of the act entitled an act to establish a code of civil procedure, be and the same is hereby amended so as to read as follows: Sec. 436. Lands and tenements taken in execution shall not be sold until the officer cause public notice of the time and place of sale, to be given for at least thirty days before the day of sale, by advertisement in some newspaper printed and of general circulation in the county; or in case no newspaper be printed in the county, in some newspaper of general circulation therein, and by putting up an advertisement upon the court house door, and in five other public places in the county, two of which shall be in the township where such lands and tenements lie. Where such advertisement is made in a newspaper published weekly, it shall be sufficient to insert the same in five consecutive numbers thereof; but wherever there shall be published, both a daily and weekly edition of the newspaper selected for such advertisement, and the circulation of the daily in the county shall exceed that of the weekly, it shall be sufficient for the officer to publish the said advertisement in the daily once a week, for five consecutive weeks, before the day of sale, each insertion to be on the same day of the week: provided, that the expense of such publication in a daily newspaper shall not exceed the cost of publishing the same in a weekly newspaper. All sales made without such advertisement shall be set aside, on motion, by the court to which the execution is returnable.

Sec. repealed.

SEC. 2. That the original section 436 of the act entitled "an act to establish a code of civil procedure," be and the same is hereby repealed, and this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

Relating to certain proposed amendment to the constitution, and the publication of this act.

Proposed amendment to the constitution providing for annual sessions of the legislature.

Whereas, the general assembly of the state of Ohio, three-fifths of the members elected to each house agreeing thereto, have proposed a certain amendment to the constitution, providing for annual sessions of the legislature, to be submitted to the electors for their approval or rejection at the election

for senators and representatives, on the second Tuesday of October, 1859, therefore,

Vote thereon to be taken at October election, 1859.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the electors of the state shall vote upon said proposed amendment at the general election in October, 1859, as herein prescribed, (viz): Those voting for said amendment, providing for annual sessions of the legislature shall put upon their ballots these words, "annual sessions, yes," and those voting against it shall put upon their ballots these words, "annual sessions, no."

The ballots.

Return of such vote to secretary of state.

SEC. 2. A return additional to the return now required by law to be made of the votes cast at such election for state officers and senators and representatives, and also for and against said proposed amendment to the constitution shall be certified and made by the clerk of each county to the secretary of state within ten days after said election, and within thirty days after said election, the governor, secretary of state and attorney general, shall open said returns and count the votes, and ascertain whether or not a majority of the votes cast at said election have been cast for said proposed amendment, and if it appears that a majority of the votes cast at such election have been cast for said proposed amendment, the governor shall make proclamation thereof without delay.

Opening returns and counting votes.

Governor's proclamation.

SEC. 3. This act shall be published by each county auditor in two weekly English papers, if two be published in the county, and in one German weekly paper, if published in the county, for two weeks next preceding the election.

Publication of this act in the counties.

SEC. 4. The cost of publishing this act, as provided in the third section, shall be paid out of the county treasury of each county.

Cost of publication.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

AN ACT

Making appropriations for the superintendence and repairs of the public works for the fiscal year ending November 15, 1859, and providing for leasing the same.

Leasing public works.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That for the purpose of leasing the public

works of said state, they are hereby divided into the following sections, to wit:

Section one. Section No. one to embrace the Miami and Erie Canal and all the side-cuts, feeders and reservoirs connected therewith, together with the lockhouses, collector's offices, weighlocks, and leases of surplus water therefrom, and all the water rents and privileges pertaining thereto, and of land used in connection therewith.

Section two. Section No. two to embrace the Muskingum Improvement, Ohio Canal, the Hocking Canal, the Walhonding Canal, and all the side-cuts, feeders, and reservoirs connected with said section, together with the lockhouses, collector's offices, weighlocks, and leases of surplus water therefrom, and all the water rents and privileges pertaining thereto, and of land used in connection therewith.

Section three. Section No. three to embrace the Western Reserve and Maumee Road, and all toll gates thereon.

Disposition of money received from the leasing. All moneys derived from the leasing of said sections, shall be paid into the state treasury and form a part of the sinking fund.

Advertisement for letting on August 15th. SEC. 2. Immediately after the passage of this act, the board of public work shall advertise said sections to be let for the term of five years, at public auction, on the steps of the state house, in the city of Columbus, between the hours of ten o'clock a. m. and four o'clock p. m. of the day of letting, which day shall be the fifteenth day of August next. Said advertisement shall be published in two papers, printed and in general circulation in the cities of Columbus, Cincinnati, Toledo, Cleveland, Zanesville and Dayton, New York, Boston, Philadelphia and Baltimore, which advertisements shall be continued in the papers in which they may be inserted until the time of letting at said public auction, and shall describe the works to be let, and the time and place of letting the same, and the terms upon which said lettings are to be made. And the said board of public works, on the said fifteenth day of August next, between the hours of ten o'clock a. m. and four o'clock p. m. of said day, at the place

The letting. aforesaid, shall proceed, at public auction, to let each section for the term aforesaid, in the order herein set forth, to the person or persons who, in consideration of the tolls to be derived from said section, shall bid to pay the highest annual rent therefor, and who shall give good security that he or they will pay the same promptly in semi-annual payments during said term, and will keep the said section in good and proper condition and repair during said term, comply with all the terms of his or their contract, and at the expiration thereof, will deliver up the same in like good condition as when received: Provided, however, that no railroad

Prohibition as to railroad or other companies. company or companies shall in any manner become parties to said bids or interested therein, and provided further, that it shall be unlawful for the lessee or lessees of any of said

sections, or their assigns, during the continuance of their leases of said sections to sell or assign their interest or any part thereof to any railroad company or companies; and provided, further, that section one shall not be leased for a less sum than forty thousand dollars, section two for not less than fifteen thousand dollars, section three for not less than four hundred dollars; and provided that no one section shall be so let unless all said sections are let. The security on section No. one shall be in the sum of two hundred and fifty thousand dollars, on section No. two in the sum of two hundred and fifty thousand dollars, and on section No three in the sum of ten thousand dollars. The bonds shall be made to the state of Ohio, and be renewable every two years or oftener if the board of public works shall think the security at any time is insufficient: Provided that no bid shall be received unless the person or persons making the same shall have first deposited with the auditor of state in money or in stocks of the state of Ohio, or of the United States, the sum of ten thousand dollars upon the conditions following, to wit: That he or they will take a lease of the section on which he or they shall bid if it shall be struck off to him or them, and give security for the same, as herein provided, and in default thereof the security so deposited shall be absolutely and wholly forfeited to and become the money or property of the state. Before the board of public works shall sign and execute any lease by virtue of the provisions of this act, they shall require the bidder or bidders to whom said lease was awarded, to make and sign an affidavit setting forth the name or names of such bidder, and of all and every person, directly or indirectly interested in obtaining said lease, and, if a firm, setting forth the individual names of the members of the same, and that neither said bidder or bidders, or any person in their behalf, had or did associate, confederate, collude or combine with any person or persons, directly or indirectly, for the purpose of preventing competition in bidding for said lease, or in any way cheating or defrauding the state in obtaining said lease or the lease of any other section let at the same time; and further setting forth that said bidder or bidders did not and have not, directly or indirectly, procured any person or persons to withdraw any bid for the purpose aforesaid, and said affidavit shall be carefully preserved on file in the office of the board of public works, and if it shall at any time thereafter appear that said affidavit was in any material respect false, it shall be deemed and held sufficient cause for setting aside any lease so made, and holding the same as null and void, and the person or persons making such false and fraudulent affidavit, shall be deemed guilty of perjury, and may be indicted and prosecuted therefor.

Proviso as to minimum sum for lease of each section; all or none to be let.

Security—on section one—two—three.

Bonds of lessees Deposit by bidders—conditions.

Affidavit of lessee.

SEC. 3. It shall be a part of the agreement between the lessee or lessees and the state, that the lessee or lessees of any section or sections of said public works shall pay the

What the agreement between the lessees and the state shall contain.

rent aforesaid at the time and place specified in his or their lease, and shall faithfully fulfil all the legal contracts and covenants of the state for the term aforesaid, contained in the water leases on said section or sections, or in leases of ground for lock-house or collectors' offices, and all legal contracts for new construction or repairs, and all arrangements or agreements entered into by the state of Ohio, by act of the legislature or otherwise with any state or corporation or with the government of the United States, during the term aforesaid, and shall at all times, when the season will permit, and the water is not necessarily drawn out of said section or sections for repairs or new construction, or obstructed with ice, or by reason of some unforeseen breaks in some structure of the public works, or on account of scarcity of water produced by drouth, keep the same in good and proper condition and repair, and shall make all necessary and needful repairs and reconstruction under the direction of the board of public works or engineer employed by the state. But no change of plan or of material shall be required which shall make the work more expensive than the old plan or materials used, and all such repairs shall be made at the time determined by said board, and the lessee or lessees of any section or sections shall permit all persons to navigate said canals and improvements, and travel on said road, making no distinction in tolls charged or in privileges granted, in favor of any person or company, but no person or company shall be permitted to use any steam power on any of said canals, without the consent of the lessee or lessees, or their successors or assigns, and the rates of toll upon all articles transported upon said public works or any part thereof, or travel upon said road, shall not upon any article exceed the last published rates of the state for 1859 and which took effect prior to the passage of this act, and if the lessee or lessees do not fulfil all the covenants contained in their respective leases, the same may be forfeited at the option of the board of public works. In case said board shall declare any section forfeited as aforesaid, they shall cause an entry to that effect to be made upon the journal of their proceedings, and shall immediately notify, in writing, the lessee or lessees of such section of their action, and shall also in said notice separately and distinctly specify the grounds upon which such forfeiture is declared, and in all such cases the action of said board shall be final, unless within six days after the service of said notice, the said lessee or lessees shall file in the office of said board, or with a member thereof, his or their written protest denying or otherwise taking issue upon the charges so made by said board in whole or in part. And upon filing of said protest the board or a majority thereof shall appoint a referee in behalf of the state, and said lessee or lessees shall also appoint a referee on his or their behalf, and the two referees so appointed shall nominate and appoint a third referee in

Rates of toll.

Forfeiture of lease—proceedings.

conjunction with them to hear and determine said matters in issue. The referees shall as soon as practicable, after their appointment, agree upon a time for meeting, not exceeding ten days after the appointment of said last appointed referee, unless the board and said lessee or lessees otherwise agree, and shall also fix some convenient place within the state, where said parties shall be heard, and when assembled at the time and place so fixed as aforesaid, said referees shall proceed to hear, adjudge and determine the matters in controversy aforesaid, and shall make their award in writing and deliver a copy of the same to the board of public works, and also to the said lessee or lessees, and if said referees, or a majority of them, shall award that said charges, or any of them, are true, and that the same constitute a good and sufficient cause why said lease shall be declared and held as forfeited, the said lessee or lessees shall immediately thereupon surrender up peaceable possession of said section and of all the property of the state appertaining thereto to the member of said board having charge of said section, and shall also be liable to the state on his or their bond aforesaid. But in case said referees, or a majority of them, shall award that said charges are not true, or that being true they do not constitute a sufficient cause for declaring said lease forfeited according to the provisions of this act, they shall determine the costs of the proceedings in said case, and the sum shall be retained by said lessee or lessees, from the next succeeding payment made by him or them to the state. Said referees shall be citizens of the state of Ohio, and freeholders therein; and the third referee herein provided for, shall be appointed by the board of public works, in case the referee in behalf of said lessee or lessees shall refuse or neglect to act for the purpose of appointing the same. Said referees shall have power to summon and compel the attendance of witnessess, and shall each receive for their services the same per diem and mileage as is now allowed by law to members of the legisluture. And witnesses in such cases shall be allowed the same fees as is by law allowed to witnesses in civil suits. If any lessee or lessees, or any employee, under him or them, shall refuse to deliver up any section declared and held forfeited in accordance with the provisions of this act, or any property of the state appertaining thereto, or shall resist any member of the board of public works, or other officer employed under said board, in the execution of his duty, after said forfeiture is duly declared, he or they shall, upon conviction thereof, be fined in any sum not less than one hundred dollars nor more than five hundred dollars, or be imprisoned in the county jail not exceeding six months, or both, at the discretion of the court: provided, that the contracts for new construction and repairs on any of said sections, now in force, or entered into between this time and the fifteenth day of August next, shall not in

Proviso as to contracts for new construction and repairs.

any case exceed the amount by this act appropriated for said section, and the contract price for the same shall be paid by the state.

Execution, delivery and effect of leases.

SEC. 4. The leases aforesaid shall be executed and delivered by said board to the lessee or lessees on said board receiving from him or them the securities aforesaid, for the section or sections of the public works, struck off as aforesaid to the highest bidder, and for the term aforesaid, which lease, when so executed and delivered, shall, for the term aforesaid, vest in said lessee or lessees all the franchises now owned and possessed by the State, in regard to said public works, together with the right to appoint superintendents, collectors, inspectors, lock tenders, weighmasters, and such other officers and agents as may be necessary; and said superintendent, collectors, and other officers and agents, shall have and exercise the same power and authority in the collection of tolls and water rents and the levying of fines as can now by law be exercised by similar officers and agents appointed by the state, and said lessees shall be governed by the rules and regulations for navigating the canals and Muskingum improvement now in force, subject to such alterations and additions as may hereafter be established by law or the board of public works.

Rules and regulations for government of lessees.

Preparation of bonds and leases.

SEC. 5. It shall be the duty of the attorney general, and he is hereby required to prepare a form of bond and lease in furtherance of the provisions of this act, to be used between the state of Ohio and the lessees of the public works, and the board of public works shall have the same printed and ready for inspection on or before the first day of August next, which form and no other shall be used in completing and executing the contracts entered into by the lessees of the public works, as provided for in this act. The security required by the board of public works of the said lessees for the performance of their several undertakings, other than that directed and required to be deposited at the time of said bidding, shall consist of the state stocks of Ohio, or United States stocks, deposited with the auditor of state, upon which the said lessee or lessees may receive the interest so long as the covenants of said lessees are fulfilled and kept, and to be returned to them by order of said board on the termination of their respective leases, provided no forfeiture of the same shall have happened during the continuance of said lease; or good and sufficient personal or real estate security to the satisfaction of the board of public works; and the said board of public works are hereby authorized, whenever they may deem it proper, to require of any person or party offered for security, a statement, under oath, of the cash value of his or their real and personal estate above all his or their debts and liabilities. Every collector or other person appointed by said lessees, or any of them or their assigns, to receive tolls on said public works, shall make monthly returns, verified by his oath, to the auditor of state, of the amount received

Security for performance by lessees of their undertakings.

Monthly returns of collections, etc., and payment of ten per cent. into state treasury.

by him during the month preceding, and it shall be the duty of said collector, or other such appointee, to pay into the state treasury ten per centum of all such collections, which shall be retained in the treasury as indemnity against the failure of such lessee or lessees to perform the stipulations of his or their lease. But said money shall be repaid to such lessee or lessees at the end of each year by the state treasurer upon the warrant of the state auditor; provided that the auditor shall not issue his said warrant until the board of public works, or a majority of them, shall have first certified in writing that the covenants and stipulations of such lease have in all respects been fully and faithfully performed up to the end of the year aforesaid.

Repayment of same.

SEC. 6. There is hereby appropriated out of any moneys in the treasury, not otherwise appropriated, for the first three-fourths of the fiscal year, ending November 15th, 1859, the several sums of money hereinafter named, or so much thereof as may be necessary for the several purposes indicated. On division number one, to be paid out on the check of Abner L. Backus, acting commissioner: For construction, superintendence and repairs, sixty-six thousand dollars; for building and repairing wooden locks, ten thousand dollars; for payment for work on Independence dam, five thousand dollars. On division number two, to be paid out on the check of John Waddle, acting commissioner: For building guard bank above Paint creek aqueduct, six hundred and fifty dollars; for building guard bank at Athens, according to instruction of joint resolution of general assembly, seven hundred dollars; for payment of damages to Dennis McCarty & Co., under joint resolution of general assembly, three thousand dollars, to be paid out of appropriation to complete the Lancaster side cut, made April 3, 1857, which appropriation is hereby renewed, and continued for this purpose; for the payment of the state's proportion toward building bridge over Walnut creek, at Lockburn, fifteen hundred dollars, and where [when] said bridge is built, the same shall be used by the state for towing path purposes free of toll; for construction, superintendence, and repairs, fifty-four thousand one hundred and seventy-five dollars. On division number three, to be paid out on the check of John L. Martin, acting commissioner: For the payment of repairs under contract, eleven thousand one hundred and ten dollars; for payment of balance due on boats, tools and materials taken from contractors, one thousand nine hundred and fifty dollars; for superintendence, construction and repairs, sixty-one thousand dollars; for payment of outstanding checks for superintendence and repairs drawn beyond former appropriations, one thousand nine hundred and ninety-five dollars and twenty-one cents; for general expenses, not included in superintendence and repairs, the following sums are hereby ordered to be paid in addition to the amounts before stated: for payment of claims found due and settled by the board of

Appropriations for—

Division No. one.

Division No. two.

Division No. three.

General expenses.

public works, one thousand dollars; for payment of attorney's fees and incidental expenses, eighteen hundred dollars; for payment of salaries of resident engineers, seven thousand five hundred dollars; for payment of salaries of members of the board of public works, four thousand five hundred dollars; for payment of outstanding checks or claims for labor done previous to November 15th, 1858, on division number one, seven thousand dollars; for payment of outstanding checks for labor on division number two, five thousand five hundred and seventy-three dollars; for improvement of mouth of Muskingum river, six thousand dollars; for repairing or reconstructing the crib at the Malta mills in Morgan county, agreeably to the joint resolution of the general assembly, twenty-five hundred dollars; for protecting the banks of the Muskingum river at West Zanesville, eight hundred and twenty-five dollars; for completion of basin on old penitentiary lot in Columbus, seven hundred and fifty dollars.

Members of board of public works not to be interested in lease.

SEC. 7. If any member of the board of public works shall directly or indirectly hold or purchase any interest in the lease of any section made and executed under the provisions of this act, or shall combine or collude with any lessee or lessees of the same to prevent the faithful execution of the provisions herein contained, he shall be deemed and held guilty of a misdemeanor, and shall upon conviction thereof be fined in any sum not less than one thousand dollars nor more than three thousand dollars, and said lease shall thereby be forfeited to the state.

Penalty and effect.

Assignment of leases.

SEC. 8. That said lessee or lessees shall not assign their said leases without the assent of the board of public works thereto, entered in writing on said leases, and upon the journal of said board, and in every such case of assignment the said assignees shall be held to have assumed all liabilities to the state of the original lessee or lessees under this act, and to be governed in every particular as by this act the original lessees are now bound, so far as the same may be applicable thereto.

Lessees of water rents—their rights.

SEC. 9. Whenever said lessee or lessees shall refuse or neglect to supply the lessee or lessees of water rents on said improvement and canals, whereby injury may accrue to said lessee or lessees of water rents, the said lessee or lessees of water rents may have and maintain an action directly against said lessee or lessees of said improvement or canals or his or their assigns, for the amount of such damage or injury in the court of common pleas of the county in which said water rents may be situate.

Disposition of materials, boats, tools, &c., provided or contracted for.

SEC. 10. The said lessee or lessees of each section of the public works, as provided in this bill, shall receive all material provided or contracted for, and boats, scows, tools, implements, horses, mules, and other property now in use by the superintendent, except as hereinbefore provided, belonging to the state on each of said sections, at their appraised

value, which appraisement shall be made by three judicious disinterested persons, to be appointed by the board of public works, and pay their appraised value, at such times and in such sums as may be determined by said board, and at the end and expiration of the lease or leases aforesaid, the said board of public works shall receive the said boats, scows, tools, implements, horses, mules and other property then in use by said lessee or lessees, at their then appraised value, which appraisement shall be made in the same manner as that hereinbefore provided, and the said lessee or lessees shall be entitled to receive pay therefor from the state at the said appraised value.

State's right to determine lease.

SEC. 11. There shall be and is hereby reserved to the state the right to determine and put an end to any lease executed by virtue of the provisions of this act, but in such case the state shall, by law, cause at least one years previous notice of its intention so to do, to be given to said lessee or lessees.

Inspection of divisions.

SEC. 12. It shall be the duty of each member of the board of public works to pass over and inspect the division under his immediate charge, as often as once every ninety days, and the engineer of such division shall personally inspect every portion of such division as often as once in thirty days and report to the board, from time to time, the result of such examinations.

Appropriation of private property.

SEC. 13. Whenever it shall become necessary in order to repair, protect, or reconstruct any of the public works of the state, or to prevent injury to the property of any person, persons or corporations occasioned through or by the public works, to appropriate to the state the property of any person persons or corporation, or any easement in, to or over the same, the same shall be done in accordance with the provisions of existing laws, and the compensation assessed for the property so appropriated shall be refunded to the treasury by the lessee or lessees of the section for the benefit of which such appropriation is made, and if not so refunded shall be deducted out of the money by this act required to be paid into the treasury by said lessees, and the title to all property so appropriated shall vest in the state.

Appropriations in case the public works are not leased.

SEC. 14. That if the said public works shall not be leased as in this act provided, there is hereby appropriated out of any moneys in the treasury, the following sums of money, for the following purposes, and to be paid out in the manner following: For general superintendence and repairs on division No. one, as the same is designated in the act of April 8, 1858, for the last quarter of the year 1859, and the first quarter of the year 1860, and to be paid out on the check of Abner L. Backus, acting commissioner, the sum of forty-four thousand dollars. For general superintendence and repairs on division No. two as the same is designated in the act of April 8, 1858, for the last quarter of the year 1859, and the first quarter of the year 1860, to be paid on

the check of John Waddle, acting commissioner, the sum of one thousand dollars. For general superintendence and repairs on division No. three, as designated in the act of April 8, 1858, for the last quarter of the year 1859 and the first quarter of the year 1860, and to be paid on the check of John L. Martin, acting commissioner, the sum of forty-one thousand five hundred dollars. For payment of awards of damages by the board of public works, the sum of two thousand dollars. And there is hereby appropriated to be expended by the board of public works, for superintendence and repairs on the national road during the year 1859 and first quarter of 1860, the sum of seven thousand dollars.

SEC. 15. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

ACTS OF A LOCAL NATURE.

AN ACT

To authorize the commissioners of Butler county to borrow money, and to levy taxes for purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Butler county be and they are hereby authorized to borrow money for county purposes, and to pay the debts of said county, in any sum not exceeding thirty thousand dollars in the aggregate, and to issue bonds of not less than one hundred dollars each, bearing a rate of interest not exceeding eight per cent. per annum, payable semi-annually, and redeemable at such time as the county commissioners may designate on the face of such bonds.

SEC. 2. That the bonds shall be signed by the commissioners, and countersigned by the county auditor, and said bonds shall not be disposed of at less than their par value.

SEC. 3. That the said county commissioners are hereby authorized to levy, in addition to any tax which may be authorized to be levied for county purposes, a tax not exceeding one mill on the dollar valuation in any one year.

SEC. 4. That this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 11, 1859.

AN ACT

Authorizing the issue of preferred stock for the extension of the Cincinnati, Wilmington and Zanesville Railroad.

WHEREAS, The Cincinnati, Wilmington and Zanesville Railroad Company has completed its road from Zanesville to Morrow, but is unable,

for the want of means, to complete the residue of its line from Morrow to Cincinnati, or any intermediate point; and

WHEREAS, It is represented that about one million of dollars of its capital stock yet remains undisposed of, and is the only means by which the corporation can extend the unfinished part of its line; and, to that end it is necessary that said corporation should have the power to provide that the stock subscribed or disposed of for such extension, shall be made, as to such extension, a preferred lien thereon, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the directors of said corporation be and they are hereby authorized to receive subscriptions for, or otherwise dispose of, the whole or such part of the said capital stock yet unissued, as may be necessary in the making and finishing of said extension, or any part thereof, on such terms and for such price as they may deem expedient.

SEC. 2. That said stock so to be issued shall be denominated "extension preferred stock," and shall constitute the first lien on the said extension, and be entitled to a priority over all the other stock of the corporation to the extent of said extension; and shall, also, be entitled to an equal participation with the other stock in the said road as now finished.

SEC. 3. That the moneys realized by the subscription or other disposition of said preferred stock, shall be appropriated to the extension of said road from Morrow to Cincinnati, or to such intermediate points on the line to be selected, as may be determined upon.

SEC. 4. This act shall take effect from its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

AN ACT

Relating to taxes for school purposes in the town of Akron.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education of the town of Akron be and they are hereby authorized to levy upon the taxable property of said town and special school district, a tax not exceeding three and one-half mills, for school purposes, for the years 1859, 1860 and 1861, respectively, and thereafter a tax of two and one-half mills annually, and no more.

SEC. 2. Said tax, or such portion thereof as the said board of education shall deem necessary for school purposes, shall be certified to the county auditor, levied, collected and paid over in the same manner as taxes for school purposes are certified, levied, collected and paid over.

SEC. 3. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed, and this act shall be in force from and after its passage, provided that the provisions of this act be only applicable

to the town of Akron, and shall not extend to any incorporated village or city that may have heretofore, or may hereafter adopt the act for the support and better regulation of common schools in the town of Akron, passed February 8, 1847, and the acts amendatory thereto.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 24, 1859.

AN ACT

To authorize the trustees of Crane township, in Wyandot county, to borrow money and levy a tax for certain purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of Crane township, in the county of Wyandot, are hereby authorized and empowered to borrow a sum or sums of money, not exceeding, in the aggregate, ten thousand dollars, at a rate of interest not exceeding seven per centum per annum, for the purpose hereinafter mentioned.

SEC. 2. That in exercising the power conferred by this act, the trustees of said township may issue bonds for such sums as may be deemed expedient, which bonds shall bear interest at a rate not exceeding seven per cent., said interest to be paid semi-annually, on or before the first Monday in March and September, and said bonds shall be drawn so as to mature at periods not exceeding ten years from the date thereof; provided, not more than two thousand dollars shall mature in any one year.

SEC. 3. Said bonds shall be signed by the trustees of said township, and countersigned by the township clerk, and each bond so issued, shall be carefully numbered and dated, and the number, date of issue, amount, rate of interest, date of maturity, and the name of the person to whom issued, shall be carefully registered in the office of the clerk of said township. No bond shall be sold for a less sum than that stated upon its face.

SEC. 4. The proceeds of the loan authorized by this act, shall be applied in payment of the bonds heretofore issued by the trustees of said township, to the Ohio and Indiana Railroad Company, in payment of stock subscribed in said company, and for no other purpose, and in case said loan be negotiated, said township trustees are hereby authorized and required to levy a tax on the property of said township, in each and every year, sufficient to pay the interest on the whole of said loan, and also to redeem said bonds as fast as they may mature.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

AN ACT

To authorize the commissioners of Hamilton county to appropriate an additional sum to aid the construction of a bridge across the White Water River, near the village of Harrison.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of the county of Hamilton be and they are hereby authorized to appropriate any sum of money belonging to the bridge fund of said county, not exceeding three thousand dollars, for the same object, and in addition to the amount authorized to be appropriated by an act entitled "an act to authorize the commissioners of Hamilton county to aid in the construction of a bridge across the White Water River, near the village of Harrison, in said county," passed April 8, 1856.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

AN ACT

To authorize the incoroporated village of Ashland to borrow money for purposes therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the incorporated village of Ashland is hereby authorized to borrow upon the faith and credit of said village a sum or sums of money not exceeding four thousand dollars, at a rate of interest not greater than eight per cent. per annum, payable annually at the office of the mayor of said village, which money, when so borrowed, shall be expended in payment of the debts created by the erection and completion of a hall for the use of said incorporated village.

SEC. 2. That all loans negotiated by said incorporated village in pursuance of this act, shall be evidenced by the bonds and certificates of said incorporated village, signed by the mayor and countersigned by the recorder; said bonds or certificates shall be negotiable and shall not be disposed of by said incorporated village for less than their par value, and shall be payable at such time and place as may be agreed upon by the parties, not exceeding five years from the date of said bonds or certificates.

SEC. 3. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

To authorize the city of Dayton to issue bonds to meet an indebtedness heretofore authorized by the General Assembly of Ohio.

WHEREAS, By a special act of the general assembly of the state of Ohio, passed February 8th, 1847, and an act amendatory thereto, passed March 24, 1849, the city of Dayton was authorized, under certain conditions, to issue city bonds to the amount of fifty thousand dollars, in payment of certain subscriptions for railroad company stock, by said act authorized to be made, and to levy a tax sufficient to pay the interest on money borrowed or procured for said purpose; and

WHEREAS, Afterwards, to wit: in March and April, A. D., 1849, the said city of Dayton did issue her bonds for said sum of fifty thousand dollars, in accordance with, and in pursuance to the conditions and provisions of said acts, said bonds falling due in ten years from the date of their issue, to wit: in March and April A. D., 1859; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the city of Dayton, by her city council, be and is hereby authorized to issue bonds of the said city of Dayton in such amount as may be necessary to lift and cancel the bonds heretofore issued, as aforesaid, by said city of Dayton, in payment for said railroad stock subscriptions, and falling due in March and April, A. D., 1859; that the bonds by this act authorized to be issued shall be drawn, bearing interest not to exceed seven per cent. per annum, and shall be of such denomination, and due and payable at such time and place as the city council of said city of Dayton shall determine; and it shall not be lawful for said city of Dayton to use or apply the bonds hereby authorized, or any portion of them, to or for any other purpose whatsoever than the cancellation of the bonds heretofore authorized as aforesaid, and issued by said city.

SEC. 2. That the said city council of Dayton are hereby authorized to levy a tax sufficient to pay the interest on the bonds hereby authorized, and to pledge the faith of the city of Dayton for the ultimate redemption of the principal of the same.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

AN ACT

To repeal an act passed April 11th, 1856, entitled "An act to authorize and regulate the sale of section number twenty-nine, and the surrender of permanent leases thereto in the county of Gallia."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the act entitled "an act to authorize and regulate the sale of section number twenty-nine, and the surrender of permanent leases thereto in the county of Gallia," passed April 11th, 1856, be and the same is hereby repealed.

SEC. 2. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

AN ACT

To authorize the town council of the incorporated village of Kalida to levy taxes for the purpose of erecting suitable school houses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the town council of the incorporated village of Kalida, Ohio, are hereby authorized and empowered to levy by tax upon the taxable property of said incorporated village, a sum not exceeding fifteen hundred dollars, to be divided into two equal annual installments, for the purpose of erecting suitable school houses in said village, to be paid out for said object by the treasurer of said village on the order of the board of education.

SEC. 2. That before the said tax is levied, an estimate and plan for building shall be made by the board of education, and submitted to the qualified voters of the said village, for their adoption or rejection; and if rejected, a second estimate and plan shall be submitted in the same manner as the first, and no such tax shall be levied till a plan and estimate shall have been adopted by said qualified voters

SEC. 3. This act to take effect from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

AN ACT

To authorize the board of education for the incorporated village of Woodsfield to borrow money for school house purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education of the incorporated village of Woodsfield, in Monroe county, is hereby authorized to borrow a sum or sums of money, in the aggregate not exceeding three thousand dollars, to be expended in purchasing a site and erecting and furnishing a school house in or adjacent to said village, or in purchasing such site with house thereon, and altering and furnishing the same for that purpose, and for no other purpose whatsoever.

SEC. 2. In exercising the power conferred by this act, said board may issue bonds for such sums as may be deemed expedient, bearing interest at a rate not exceeding ten per cent.; and said bonds shall be drawn so as to mature at periods not exceeding six years from the date thereof; but not more than five hundred dollars shall mature in any one year.

SEC. 3. Said bonds shall be denominated "school house bonds," and shall be signed by a majority of the members of said board in their official capacity, and countersigned by the clerk of said board. Each bond so issued shall be numbered and dated, and the number, date of issue, amount, rate of interest, date of maturity, and the name of the person to whom issued shall be carefully registered and preserved in the office of the clerk of said board of education. And no bond shall be sold for a less sum than that stated on its face.

SEC. 4. In case the loan provided for in this act shall be negotiated, said board of education is hereby authorized and required to levy a tax on the property situated in said school district, in each and every year, sufficient to pay the annual interest on the whole loan, and also redeem said bonds as fast as they mature.

SEC. 5. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 21, 1859.

AN ACT

For the relief of Goldsmith Coffeen.

Whereas, Nathaniel G. Hedges, under, and in accordance with, the law of the state of Ohio, entitled "an act to provide for the sale of section twenty-nine, granted by congress for the support of religion within the Ohio company's purchase," passed March 3, 1834, became the purchaser of, and fully paid for, lot No. 8, in section 29, township 4, and the first entire range, number one, in Sycamore township, Hamilton county, Ohio; and, in pursuance of the law aforesaid, William Bebb, then the governor of Ohio, on the 9th day of February, 1847, executed and delivered to N. G. Hedges, a deed, thereby intending to convey to him, in fee simple, the lot aforesaid, as appears of record in the office of the secretary of state, in land record No. 3, p. 101, of the Ohio company's purchase;

And whereas, The said N. G. Hedges sold said lot No. 8 to John Schneider, and intended to convey the same to him, in fee simple, by deed dated April 17, 1847, which is entered of record on the land records of Hamilton county, Ohio, in vol. 120, p. 202; and the said J. Schneider and wife sold the lot aforesaid to James Knox, and intended to convey the same to him by deed, in fee simple, dated October 23, 1847, and entered of record on the land records of Hamilton county, Ohio, in vol. 125, p. 513; and the said J. Knox and wife sold the aforesaid lot to Goldsmith Coffeen, and intended to convey the same to him, in fee simple, by deed dated February 28, 1853, which is duly recorded on the land records of Hamilton county, Ohio, in vol. 187, p. 76;

And whereas, The surveyor of Hamilton county, Ohio, in his official survey and plat of the lot aforesaid, made April 20, 1843—as returned to, and now on file in, the auditor's office of said county—committed several errors in putting down his field notes of said survey (though the plat thereof, in shape, is correct); some of the lines are incorrect in course, and one in distance. There are no closing line, or lines, to the survey; and, in truth, all the lines are mere mathematical lines, inclosing no land whatever.

And whereas, also, The errors committed by the surveyor in his field notes of the survey as aforesaid, were carried into the governor's deed hereinbefore mentioned, and they run through all the subsequent conveyances of said lot—conveying nothing more than the mere mathematical lines aforementioned, and giving no monuments whatever, other than the northeast corner of the section aforesaid. And, inasmuch as it is right that the errors aforesaid should be corrected, and as there is no law in existence authorizing any tribunal to cure the same: Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the governor of Ohio is hereby empowered and required, in the name and on behalf of the state of Ohio, to execute and deliver, in due form of law, to Goldsmith Coffeen, of Warren county, Ohio, a deed, thereby conveying to him, in fee simple, the aforesaid lot No. 8, according to its metes and bounds as thus accurately described and set forth, viz: "Situate in Sycamore township, Hamilton county, Ohio; being part of section number twenty-nine, township number four, and first entire range number one: beginning in the east boundary line of the section at a point therein fifteen chains and thirty-eight links south from the northeast corner thereof; thence N. 68 deg. 15 min., W. eight chains and forty-six links (8.46); thence S. 25 deg. 30 min., W. eight chains and ninety-five links (8.95), along the Cincinnati, Lebanon and Springfield turnpike road; thence S. 89 deg. 57 min., E. eleven chains and seventy links (11.70); thence N. 0 deg. 24 min., E. four chains and ninety-five links (4.95), to the place of beginning; containing six acres and seventy hundredths of an acre of land, more or less."

SEC. 2. This act shall be in force immediately on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 21, 1859.

AN ACT

To authorize the trustees of Greene township, in the county of Scioto, to prosecute in their name civil actions in certain cases relative to school lands ceded by congress to the district of the country known as "French Grant."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees of Greene township, in the county of Scioto, be and they are hereby authorized in their name to institute and conduct to final

judgment any civil action or actions in any court of record in this state having cognizance of such actions, for any trespass or trespasses heretofore committed upon, or for any injury to, right in, or interest, claim or demand growing out of, the lands situate in the county of Lawrence selected by the secretary of the treasury of the United States for the support of schools within that district of country known as "French Grant," in the county of Scioto, in pursuance of an act of congress approved May twentieth, one thousand eight hundred and twenty-six.

SEC. 2. That any and all moneys realized out of said suits after deducting the necessary expenses incurred in the prosecution of the same, shall be appropriated by said trustees for the support of schools in said "French Grant," from time to time as the same shall be required.

SEC. 3. That the act entitled "an act to authorize the trustees of Greene township, in the county of Scioto, to bring civil actions in certain cases relative to school lands ceded by congress to the district of country known as 'French Grant,'" passed April 12th, 1858, be and the same is hereby repealed.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

February 21, 1859.

AN ACT

To amend a certain act entitled "an act to authorize the commissioners of Hamilton county to surrender the lower river road, and the extension thereof, to the creditors and bond holders of said road."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the first section of said act be so amended as to read as follows: Sec. 1. That it shall be legal, by just and equitable arrangements between the commissioners of Hamilton county and the bond holders and creditors, as either bond holders or creditors of the extension of the lower river road, situate in said county, to surrender such road into the control and direction of such bond holders and creditors, or either thereof; and in entering into such arrangements, it shall require more than one-half in amount of either the bond holders and creditors, or bond holders or creditors, as the case may be, to give their assent thereto, before the same shall be binding upon the parties thereto.

SEC. 2. That said section one, so far as it relates to the said extension of the said road, be and the same is hereby repealed.

SEC. 3. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

To provide for re-leasing ministerial and school sections in Homer township, Morgan county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of township number seven of range thirteen, Homer township, Morgan county, shall immediately after the passage of this act, or whenever any of the leases, granted to any lessee or lessees of ministerial section twenty-nine, and school section sixteen in said township shall terminate, appoint three disinterested freeholders of the county, whose duty it shall be to appraise the premises described in such lease or leases, without reference to any improvement thereon, but taking into account the increased value of the premises by reason of the improvements, in the neighborhood, except such as may have been made in payment of rents, and the trustees shall re-let the same to the present owners, their heirs or assigns, for the term of seven years, on the payment of six per cent. annually on such valuation.

SEC. 2. And the trustees aforesaid are hereby required at the expiration of every seven years, to have said lands re-appraised as aforesaid, and to re-let the same on the terms aforesaid to the lessees thereof, their heirs or assigns, unless said lessees shall neglect or refuse to take the same, in which case the trustees shall lease the premises to the highest bidder.

SEC. 3. That the act entitled "an act to provide for re leasing ministerial section twenty-nine, and school section sixteen, in Homer township, Athens county," passed March 6, 1845, be and the same is hereby repealed, and this act shall take effect, and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 25, 1859.

AN ACT

To authorize the board of education of the incorporated village of Newark to borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the incorporated village of Newark, in Licking county, be and hereby are empowered to borrow money, not exceeding five thousand dollars in the aggregate, for the purpose of paying the debt of said board.

SEC. 2. That for the purpose aforesaid, said board of education are empowered to issue bonds, signed by the president and secretary of said board, in the sum of five hundred dollars each, payable to bearer, with interest annually, not exceeding the rate of eight per centum per annum: provided, that one of the bonds be made payable each year after the issue thereof, and the same shall not be disposed of by the board below par.

SEC. 3. That for the purpose of paying said bonds and the annual interest thereon, said board are empowered to levy a tax which shall be placed on the duplicate of the auditor of said county, and collected as the other taxes levied by said board: provided, that the whole amount of taxes levied by said board shall not exceed the amount now authorized to be levied.

SEC. 4. This act shall take effect aud be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

To authorize the board of Education of the special school district composed of the incorporated village of Logan, in this state, with the territory thereto annexed, for school purposes, to borrow money and issue bonds for school house purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of education of the special school district composed of the incorporated village of Logan, in Hocking county, in this state, with the territory thereto annexed, for school purposes, be and the same is hereby authorized and empowered to borrow a sum or sums of money not exceeding ten thousand dollars in the aggregate, and to pledge the faith and credit of the said special school district for the repayment of the same, which money shall be expended in erecting, completing and furnishing a school house in said special school district, under the supervision of said board of education.

SEC. 2. All loans so made, by said board, shall be evidenced by the bonds of said special school district, signed by the president and countersigned by the clerk of said board of education, and such bonds shall not represent or call for a greater sum than one hundred dollars each.

SEC. 3. The bonds provided for in the last section, shall be payable to bearer, and shall bear interest at a rate not exceeding six per cent. per annum, payable semi-annually, and the principal and interest shall be payable at such place or places in this state, and at such time or times as shall be designated in said bonds.

SEC. 4. Each bond so issued by said board shall be carefully numbered and dated, and the number and date thereof, rate of interest, date of maturity, and the name of the person to whom, with the amount for which the same was sold, shall be accurately recorded and preserved by the clerk of said board, in a book to be provided for that specific purpose, which book shall at all times be open to the inspection of the electors of such special school district.

SEC. 5. The said board of education is authorized and required on or before the fifteenth day of May, in each year, after any of such bonds shall have been sold as aforesaid, to certify to the auditor of said county of Hocking the amount necessary to pay the principal and inter-

est of all such bonds so sold, which will become due and payable within one year thereafter; and it is made the duty of the auditor of said county to assess the amount so certified equally upon all the property then appearing upon the duplicate within said special school district in the same manner that other similar taxes are assessed, and the same when so assessed shall be collected by the treasurer of said county in the same manner as other taxes are then by law collected, and shall be paid out by said treasurer only on the written orders of said board of education or a majority of the members thereof for the time being, each of which orders shall state distinctly the purpose to which the amount thereof is to be applied.

SEC. 6. The act entitled "an act authorizing the board of education of the incorporated village of Logan, Ohio, to borrow money for school house purposes," passed April 12, 1858, is hereby repealed.

SEC. 7. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

To authorize the commissioners of Hamilton county to surrender the Cumminsville and Clifton turnpike road to the creditors and bondholders thereof.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be legal, by just and equitable arrangements between the commissioners of Hamilton county and the bondholders or creditors of the Cumminsville and Clifton turnpike road, situated in said county, as the case may be, to surrender such road into the control and direction of such bondholders and creditors, or either thereof; and in entering into such arrangements it shall require two-thirds of either bondholders and creditors, or bondholders or creditors, as the case may be, to give their assent thereto before the same shall be binding upon the parties thereto.

SEC. 2. That such surrender being consummated, the parties to whom the same is made, may become incorporated under the provisions of so much of the act of May 1, 1852, entitled " an act to provide for the creation and regulation of incorporated companies in the state of Ohio," and the amendents thereof, as relate to turnpike and plank road companies, except so far as the same shall be entitled to one share of stock for each fifty dollars in amount of such bond or credit.

SEC. 3. That such company shall at no time pay a greater interest or make a larger dividend than six per cent. per annum upon their indebtedness or the stock of such company; and after keeping their road in repair and making such improvements upon the same as such company may think necessary and proper, and the payments of the debt and stock in said road, with six per cent. interest thereon, the tolls of such road shall be reduced to such rates as shall be sufficient to keep

said road in repair; provided, that the commissioners of said county shall at all times have power to prevent any improvements of such road that they may think unnecessary and improper.

SEC. 4. Nothing in this act shall be construed to make the said commissioners or the said county liable for the said bonds or contract for the improvement or repair of said road, nor the creditors thereof.

SEC. 5. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

AN ACT

To authorize the commissioners of Licking county to borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners of Licking county are hereby authorized and empowered to borrow any sum of money not exceeding fifty thousand dollars, for the purpose of paying the outstanding bonds of said county which were issued to the Central Ohio Railroad Company, and will mature on the first day of January in the year 1860, for which said loan the said commissioners and their successors in office may issue such bonds as may be agreed upon between them and the person or persons, body or bodies corporate, with whom or of which such loan or any part thereof may be contracted, bearing interest at a rate not exceeding seven per cent. per annum, payable annually, and redeemable as follows: ten thousand dollars on the first day of July, in the year 1860; ten thousand dollars on the first day of July, in the year 1861; ten thousand dollars on the first day of July, in the year 1862; ten thousand dollars on the first day of July, in the year 1863; and ten thousand dollars on the first day of July, in the year 1864, and at such place as the said county commissioners may designate on the face of such bonds, and that said bonds shall not be disposed of by the commissioners below par.

SEC. 2. That for the payment of the interest annually on such bonds, and the final redemption of the principal of such loan, the said county commissioners are authorized to levy a tax annually, in addition to any tax which may be authorized to be levied for county purposes; said tax shall be levied and assessed on the same kind of property which may be charged for any county tax, and added to and collected with such county tax, by authority of the same duplicate, in the same manner and within the same time that said county tax may be collected.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER
President of the Senate.

March 4, 1859.

AN ACT

To authorize the board of education of the township of Jefferson, in the county of Mercer and state of Ohio, to borrow money for school-house purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education in the township of Jefferson, in the county of Mercer and state of Ohio, be and said board is hereby authorized and empowered to borrow a sum or sums of money, in the aggregate not exceeding two thousand dollars, for the purpose hereinafter mentioned.

SEC. 2. In exercising the power conferred by this act, said board of education may issue bonds for such sums as may be deemed expedient, which bonds shall bear interest at a rate not exceeding eight per cent. per annum; said interest to be payable annually on or before the first Monday in April, and said bonds shall be drawn so as to mature at periods not exceeding seven years from the date thereof; provided that not more than five hundred dollars shall mature in any one year.

SEC. 3. The bonds shall be denominated "school-house bonds," and shall be signed by a majority of said board of education, and countersigned by the clerk of said board. Each bond so issued shall be carefully numbered and dated, and the number, date of issue, amount, rate of interest, date of maturity, and the name of the person to whom issued, shall be carefully registered and preserved in the office of the clerk of said board of education.

SEC. 4. In case the loan provided for in this act shall be negotiated, said board of education is hereby authorized and required to levy a tax on the property situated in said township, and the territory attached, if any, in each and every year, sufficient to pay the annual interest on the whole of said loan, and also to redeem said bonds as fast as they mature.

SEC. 5. The proceeds of the loan authorized by this act shall be expended in completing and furnishing the school house in the town of Celina, in said county, and in discharging the liabilities already incurred for said purposes, and for no other purposes whatever.

SEC. 6. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

To authorize the commissioners of Scioto county to purchase ground and to provide for the erection of a county jail.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Scioto county be and they are hereby authorized to purchase ground and erect a good and secure jail for said county.

SEC. 2. That the commissioners of said county be and they are hereby authorized and empowered to levy, in addition to the amount now authorized by law to be levied upon the taxable property of said county listed for taxation, any sum not exceeding twenty thousand dollars, to be collected as other county taxes are collected, and to be applied exclusively to carrying into effect the purposes of this act: Provided, that said levy shall not exceed ten thousand dollars in any one year.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

To authorize the commissioners of Franklin county to sell the infirmary farm, and to provide for the erection of a county jail in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Franklin county be and they are hereby authorized to sell and convey the infirmary farm of said county, upon such terms, and in such manner, as they may deem most advisable, and apply the proceeds arising from the sale of said land to the erection of a county jail in said county.

SEC. 2. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

AN ACT

Requiring the probate judge of Noble county to make certain records, entries and indexes in the books of his office.

WHEREAS, The Honorable D. F. Sandford, late probate judge of Noble county, departed this life in the month of March, A. D., 1857, before the expiration of his term of office, without having made the proper and necessary entries and records, as required by law, of a portion of the business transacted in said court during the continuance in office of said judge, and for making which the full fees allowed by law had been paid to said judge in his lifetime;

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,*

That it shall be, and is hereby, made the duty of the probate judge of Noble county, within six months from the passage of this act, to make in the respective books of his office the proper entries, records and indexes, as required by law, of all the business transacted in said probate court during the continuance in office of the Honorable D. F. Sandford, late probate judge of said county, and for which he, in his lifetime, received the legal fees, but of which the proper entries, records and indexes, or any of them, were not made during his continuance in office; and that said entries and records when so made shall have the same vadility, force and effect as though the same had been made at the proper time as prescribed by law.

SEC. 2. That for all services performed by said probate judge under the provisions of this act, or that may have been by him performed prior to its passage, in making such records, entries and indexes, or any of them, as are by the foregoing section required to be made, he shall be entitled to receive the same fees as are now allowed by law for the like services, which said fees shall be paid out of the treasury of said county upon the order of of the county auditor.

SEC. 3. That said probate judge, when he shall have completed the services required by section one, shall make out and certify to the county auditor a written statement of said services, the respective cases or matters in which the same have been rendered, and the fees to which he may be entitled for the same; and thereupon the said auditor shall issue an order to the county treasurer for such sum as he shall find to be due said judge for said services.

SEC. 4. That the prosecuting attorney of Noble county be, and he is hereby authorized and required to bring suit on the official bond of the Hon. D. F. Sandford, late probate judge of Noble county, for the purpose of recovering back the money thus paid out of the county treasury, and when so collected shall pay the same into the treasury of said county.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro. tem. of the Senate.

March 10, 1859.

AN ACT

To provide for the payment of the claim of David C. Doan.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That there be, and hereby is appropriated to David C. Doan out of any money in the treasury not otherwise appropriated, the sum of six hundred and thirty-five dollars and twenty seven-cents, which sum is to be received by the said David C. Doan in full of all claims of the said

David C. Doan against the State of Ohio, by reason of the failure of title to Grape Island in the Maumee river.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

To authorize the trustees of Boston township, in Summit county, to levy a tax for a special purpose therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the township of Boston in Summit county, be and they are hereby authorized to levy a tax not exceeding two mills on the dollar of the valuation of the property of said township, for the purpose of paying an indebtedness created for the erection of a town hall in said township.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON.
President pro tem. of the Senate.

March 10, 1859.

AN ACT

To authorize the lessees or their assignees of section twenty-nine, town two, range two, between the Miami rivers, in Butler county, Ohio, to surrender their leases and receive deeds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That all lessees, assignees or equitable holders of all or any part of section twenty-nine in town two, range two, between the Miami rivers, be and they are hereby authorized to surrender their permanent leases to the state of Ohio for the use of said original township, the said surrender to be made in writing, under seal, to the auditor of Butler county, who is required to enter in a book to be by him provided for that purpose, the date of the original lease, the date of the assignment or other evidence of title, the name of the original lessee, the name of the owner who surrenders the same, the description of the land, and the rate per acre at which the land or any part thereof situated in the lot covered by the lease was appraised in the year eighteen hundred and fifty-one, in certain proceedings in Butler county court of common pleas, recorded in chancery records number 11, pages 545, 546 and 547.

SEC. 2. That on the surrendering of any such lease, such lessee, assignee or equitable holder shall be entitled to receive from the county auditor a certificate of purchase for the land in said lease so surrendered, by paying therefor the same price per acre as the said lot covered by the said original lease or any part thereof was appraised at in said proceedings in the court of common pleas of Butler county, in the year 1851, together with all rents which may be due upon the same up to the time of such surrender, in the manner following: all rents due, and one-fourth of the purchase money or appraised value of such lands at the time of surrender, and the residue of such appraised value, shall be divided into three equal installments, one of which is to be paid annually from and after the date of the surrender until the whole be paid, the deferred payments to bear interest, payable annually, said person surrendering being permitted to pay the entire purchase money at any sooner period if he sees fit.

SEC. 3. All payments made under the provisions of this act, shall be made to the treasurer of said county; and to enable the person whose duty it is, to make such payment, such person shall receive from the auditor a certificate specifying on what account such payment is to be made, and the amount thereof; such person on making payment shall receive the treasurer's receipt therefor, which he shall deliver to the county auditor, who shall preserve the same and charge the treasurer therewith, and give to the person making such payment a certificate specifying on what account such payment was made.

SEC. 4. The treasurer of said county shall keep separate accounts of all moneys received under the provisions of this act, specifying when, from whom, and on what account each item was received, and it shall be the duty of such county treasurer to make and transmit on the first Monday in January, annually, a transcript of said accounts to the auditor of state, and the county treasurer shall pay over annually, on or before the first Monday in February, all moneys which shall come into his hands on account of such lands during the preceding year.

SEC. 5. That when the lessee, assignee, or equitable holder shall surrender his said lease under the provisions of this act, the county auditor shall give him a certificate specifying the date of said surrender, the name of the person surrendering the same, the description of the land described in the lease, the amount of the purchase money, the number of installments, the amount paid and when the residue will become due.

SEC. 6. That when the said lessee or assignee, or any one holding the title under said lessee or assignee, shall have paid in full for said tract, according to the provisions of this act, the county auditor shall give the person entitled thereto a final certificate, particularly describing the parcel of land so paid for, and the several sums that have been paid thereon, and upon the presentation of said certificate to the auditor of state, he shall make the draft of a deed to the person or persons entitled thereto, which he shall deliver to the governor, accompanied by such final certificate, which said deed shall be signed by the governor, sealed by the great seal of the state of Ohio, and be countersigned and recorded by the secretary of state, and delivered to the persons entitled thereto on demand.

SEC. 7. That if any purchaser of any land, as hereinbefore provided, shall fail for one year to make payment of any installment which may become due and payable thereon, the proper county auditor shall

proceed to sell such land, with all the improvements thereon, at the court house in said county, to the highest bidder, after having given notice of such sale by causing an advertisement, giving a description of such land, and the day of sale, not more than three months from the date of such advertisement, to be published at least four times in some newspaper in general circulation in said county, one of which publications shall be at least forty days before the said day of sale; provided, that no bid shall be received for a less sum than the amount due and to become due to the state, including all the expenses of sale, and if no person will bid that amount, such parcel of land, together with all money paid thereon, shall be absolutely forfeited to the state of Ohio in trust for the use of the said original surveyed township numbered two; but if said land shall sell for more than the amount due the state of Ohio, including the expenses of sale, the surplus shall belong to the original purchaser or his assignees.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

For the relief of Grandison Newell.

Whereas, Grandison Newell, of Lake county, Ohio, in 1838, at much personal expense, prosecuted indictments in the name of the state of Ohio against Sidney Rigdon and Joseph Smith, jr., in the court of common pleas in Geauga county, under the act entitled "an act to prohibit the issuing and circulating unauthorized bank paper," passed January 27, 1816, and therein procured judgments against the said Sidney Rigdon and Joseph Smith, jr., for the sum of one thousand dollars each; now, at the request of the said Grandison Newell, and that he may obtain reimbursement for his said expenses and outlays,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the said judgments be and they are hereby assigned to said Grandison Newell, and said Grandison Newell is hereby authorized for his own use and at his own charges and expense, in the name of the state of Ohio, to revive said judgments according to the course of proceedings of said court, have execution, or institute and prosecute any suits known to the laws of this state, and have process, mean and final, for the collection of said judgments; provided, that in no event shall any costs or charges made under or by virtue of this act be paid from the treasury of the state or of the counties of Lake and Geauga.

SEC. 2. This act to be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

AN ACT

To amend an act passed April 15th, 1857, entitled an act to authorize the commissioners of Hamilton county to surrender the lower river road, and the extension thereof to the creditors and bond holders of said road.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for the trustees of Storrs township, to whom as creditors of the lower river road the commissioners of Hamilton county have, under said act, surrendered said road, to place a toll gate as near to the west end of Mill creek bridge in said township, as they shall see proper, any law to the contrary notwithstanding, and when said toll gate is placed there, it shall be the duty of said trustees to keep said bridge lighted out of the proceeds of the tolls of said lower river road.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To authorize the commissioners of the county of Lawrence, in this State, to set apart a portion of the funds collected for road purposes, and to make specific appropriations of the same.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of the county of Lawrence in this state, are hereby authorized, annually, at their regular March session, to order and provide that such portion of the funds levied or collected for road purposes as they may deem reasonable and proper, shall annually be set apart to be appropriated for the purposes hereinafter mentioned.

SEC. 2. That said commissioners are authorized to make such specific appropriations of the funds mentioned in the first section of this act, for particular roads or parts of roads, as they shall think best, and the money so appropriated to be expended in such manner as the said commissioners may direct. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To enable the board of education of the village of Delphos, in the counties of Allen and Van Wert, to convey lot No. 47 in said village.

WHEREAS, John O. Brederick, of Allen county, Ohio, by deed dated August, A. D., 1852, in due form made and executed, conveyed lot number forty-seven in the village of Delphos, situated in that part of said village which lies in the county of Van Wert, to the board of education of the village of Delphos aforesaid for school purposes; and whereas, said lot has not been appropriated by said board in accordance with the terms of said grant; and whereas, the said John O. Brederick afterwards donated the said lot to the old school presbyterian church of said village of Delphos, with the consent of the board of education of the said village, and requested them to make a conveyance to the said church of the lot aforesaid; and whereas, said Brederick has since died, the legal title of said lot still remaining in said board; and whereas, it is the wish of said board of education, as well as the executors of said decedent, to convey said lot number forty-seven to the trustees of the old school presbyterian church and their successors, to be used by them for church purposes; and whereas, it is the prayer of all those interested that said lot should be so conveyed; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education of the said village of Delphos be and the same is hereby authorized and empowered to make, execute and deliver to the trustees of the old school presbyterian church in said village, and their successors in office, said lot number forty-seven, to be used by them for church purposes.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 14, 1859.

AN ACT

To authorize the lessees of ministerial section twenty-nine, in Salem township, Meigs county, to surrender their leases and receive deeds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the lessees, assignees or equitable holders of any part or parcels of ministerial section twenty-nine, in original township number eight of range number fifteen of the Ohio company's purchase in Meigs county, be and they are hereby authorized to surrender their permanent leases to the state of Ohio for the use of said township, the surrender to be made in writing, under seal, to the auditor of Meigs county, who is hereby required to enter in a book to be by him provided for that purpose, the date of the original lease, the date of the assignment or other evidence of title, the name of the original lessee, the name of the person

surrendering the same, a full description of the tract surrendered, and the rate per acre at which such tract was valued at the last appraisement thereof under said lease.

SEC. 2. That on the surrendering of any such lease, such lessee, assignee or equitable holder shall receive from the auditor of said county, a certificate of purchase for the tract embraced in the lease surrendered, by paying therefor the same price per acre as the same was valued at at the last appraisement under said lease, in the manner following: One-fourth of said purchase money shall be paid at the time of the surrender, and the residue shall be divided into three equal installments, one of which shall be paid annually, from and after the date of the surrender until the whole is paid, the deferred payments to bear interest at six per cent. per annum, payable annually; provided, the person surrendering shall be permitted to pay the whole of the purchase money at any time before the same becomes due; and provided further, that no person shall be permitted to make such surrender until all rents due under said leases shall have been fully paid.

SEC. 3. That all payments made under the provisions of this act, shall be made to the treasurer of said Meigs county, and the person making the same shall receive from said treasurer a receipt therefor, which receipt he shall deliver to the said auditor, who shall file the same in his office, and charge the treasurer therewith, and give to the person making such payment a certificate of the same.

SEC. 4. That the treasurer of said county shall keep separate accounts of all moneys received under the provisions of this act, when, from whom, and on what account each item was received, and it shall be the duty of said county treasurer to make out and transmit, on or before the first Monday in January annually, a transcript of said account to the auditor of state, and the said county treasurer shall pay over annually to the treasurer of state, at the time of making his settlement with the treasurer of state, in February, all the money that shall have come into his hands under the provisions of this act during the preceding year.

SEC. 5. That when any person shall surrender his lease as aforesaid, said county auditor shall give him a certificate specifying the date of the surrender, the name of the person surrendering the same, a description of the land embraced in the lease surrendered, the amount of purchase money, the number of installments, the amount paid, and when the several installments will become due.

SEC. 6. That when said lessee, or any person holding title under him, shall have paid in full for such tract of land under the provisions of this act, the said county auditor shall give the person entitled thereto a final certificate particularly describing the parcel of land so paid for and the several sums that have been paid thereon, and upon the presentation of said certificate to the auditor of state, the said auditor of state shall make out a draft of a deed to the person or persons entitled thereto, which he shall deliver to the governor, which said deed shall be signed by the governor, sealed with the great seal of the state of Ohio, and countersigned and recorded by the secretary of state, and delivered to the person entitled thereto on demand.

SEC. 7. That if any person who shall have surrendered any such lease as herein provided, or his assignees shall fail for one year to make

payment, of any installment after the same becomes due, the said county auditor, after giving sixty days notice in a newspaper printed in said county, of the time and place and terms of sale, and which notice shall describe the premises to be sold, shall proceed to sell said tract with all the improvements thereon, at public auction, at the door of the court house in said county, to the highest bidder for cash; provided, the same shall not be sold for a less sum than remains unpaid of the purchase money and costs of sale; and after paying out of the proceeds of said sale the costs and purchase money unpaid, the said auditor shall pay over to the person or persons, so failing to make payment, or their legal representatives on demand, any surplus that may remain, and the purchaser at such sale shall be entitled to receive a deed from the governor, on the certificate of the auditor, the same as if he had been the holder of the lease and complied with all the provisions of this act.

SEC. 8. That all moneys paid into the state treasury under the provisions of this act, shall be appropriated and the proceeds paid over in the same manner as money arising from the sale of other ministerial lands are by the laws in force appropriated and paid over.

SEC. 9. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

AN ACT

To authorize the opening of a county road through lands owned by the state in Franklin county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Franklin county be and they are hereby authorized to lay out, open and establish a county road, if in their judgment the public interest requires it, through a tract of about eleven acres of land, owned by the state, situate in Montgomery township, in said county of Franklin, in continuation of a road laid out from the Livingston road, so called; running thence, in a northerly direction, to the southern boundary of said land.

SEC. 2. This act to take effect and be in force from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

AN ACT

To provide for the removal of the seat of justice of Paulding county, from the town of Paulding to the town of Charloe, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the taking effect of this section of this act, as hereinafter provided, the seat of justice in the county of Paulding shall be removed from the town of Paulding, in said county, and shall be permanently fixed, until otherwise provided by law, at the town of Charloe, in said county.

SEC. 2. That the foregoing section of this act shall take effect and be in force when, and so soon as the same shall be adopted by a majority of all the electors of said Paulding county, voting at the next general election on the second Tuesday of October after the passage thereof, as hereinafter provided.

SEC. 3. That the electors of said Paulding county, at the next general election on the second Tuesday of October after the passage of this act, shall endorse or otherwise place on their tickets either the words, "for removal," or "against removal," and if a majority of all the electors of said Paulding county voting at the said election, shall vote "for removal," the first section of this act shall thereupon be considered and holden to be adopted by such majority: Provided, that all tickets upon which the words, "for removal," shall not be endorsed, or otherwise placed, shall be taken and considered as votes against removal, as fully as though the words "against removal," were endorsed or otherwise placed thereon.

SEC. 4. That the judges and clerks of election of the several townships in said county, at the said general election, shall cause all the votes that may be so given for removal, or against removal, to be correctly counted, in the same manner that other votes are by law required to be counted (in doing which, all tickets upon which the words "for removal," shall not be endorsed, or otherwise placed, shall be counted as votes against removal as fully as though the words "against removal" were endorsed, or otherwise placed thereon), and they shall enter and certify in the poll books, respectively, of said general election, the number of votes so counted for removal and the number so counted against removal, which poll books shall be returned and opened, as required by the acts regulating said general election, and the opening of the returns thereof, and the officers opening the returns of said election, shall, at the same time that they make, certify and sign the abstracts, required by law, also make, certify and sign a separate abstract of all the votes so returned for removal or against removal, showing the number so given in each township, and the footings, or aggregate number so given in all the townships, which abstract shall be forthwith deposited in the clerk's office of said county, and shall forthwith be recorded by the clerk, in the journal of the court of common pleas of said county, which record, or a duly certified copy thereof, shall be taken and received as legal evidence, for all purposes, as the result of said voting.

SEC. 5. The sections of this act subsequent to the first section shall take effect and be in force on the passage of this bill: Provided further, that in case a majority of the legal voters of the county shall vote for removal of the seat of justice from Paulding Center to Charloe, the public offices and business of said county shall not be so removed until a

majority of the commissioners of the county shall certify that a court house, jail and offices for the public officers have been provided at Charloe as the property of the county without cost to the tax payers of the county, and it is further provided that it shall be the duty of the commissioners to so certify when the fact exists.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 25, 1859.

AN ACT

To authorize the commissioners of Coshocton county to borrow money to supply the deficiency in the treasury of said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Coshocton county, for the purpose of raising money to supply the deficiency in the treasury of said county, occasioned by the late robbery thereof, are authorized to issue the bonds of the county in sums not less than one hundred dollars each, bearing interest not exceeding seven per cent. per annum, payable at such time and place, within or without the state, as said commissioners shall think proper. Said bonds shall be signed by the commissioners, and attested by the auditor of the county. The aggregate amount of said bonds shall not exceed ten thousand dollars, nor shall more than one-fourth part thereof be made payable in any one year. They shall be negotiable, but shall not be disposed of by the commissioners for less than their par value.

SEC. 2. The county commissioners of said county are authorized and empowered to levy such taxes on all the taxable property of said county as will be sufficient to pay the principal and interest of said bonds as the same shall become due: Provided that this act shall in no wise affect the liability of the county treasurer of said Coshocton county or his official securities, and provided, also, this act shall not be so construed as to waive or impair any right of the State for her revenue claimed to be lost by such robbing.

SEC. 3. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To authorize the council of the incorporated village of Delaware to borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the council of the incorporated village of Delaware be and is hereby authorized to borrow the sum of five thousand dollars to pay off the indebtedness of said corporation; and for that purpose, said council is hereby authorized, in behalf of said incorporated village, to issue bonds of such denomination as said council may deem advisable, payable in ten years from the date thereof, with such rate of interest, not exceeding seven per centum per annum, as the council may determine, the interest to be paid annually.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To authorize the board of education of the incorporated village of Malta to borrow money for school-house purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the board of education of the incorporated village of Malta, in Morgan county, be and they are hereby authorized and empowered to borrow a sum of money not exceeding six hundred dollars for school-house purposes, the interest on said loan not to exceed six per centum per annum.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To authorize the commissioners of Henry county to issue bonds to facilitate the completion of the Maumee River bridge at Napoleon.

WHEREAS, On the 15th day of April, 1857, an act was passed by the general assembly of the state of Ohio authorizing the commissioners of Henry county to levy a tax for the construction of a bridge across the Maumee river at Napoleon, in said county; and

WHEREAS, Under the provisions of said act the county commissioners let a contract for the construction of said bridge, to be completed on the first day of March, 1860, and the work on said contract has been commenced and advanced so far that the terms of the contract may be easily complied with as to the time of completion; and

WHEREAS, The law for the semi-annual collection of taxes delays the collection of one-half the levy of taxes for this purpose six months beyond the time contemplated when the work was let to contract, and to that extent hinders the progress of the same; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Henry county are hereby authorized to issue bonds based upon the levy of tax authorized by the act of April 15, 1857, for the construction of a bridge across the Maumee river at Napoleon, in said county, in sums of not less than one hundred dollars each, redeemable at the county treasury within two years from the first of July, 1859, and bearing interest at the rate of seven per cent. per annum, payable semi-annually, at the county treasury, on the first day of January and July in each year. The aggregate amount of said bonds issued to be discretionary with the county commissioners: provided, that the gross amount shall not in any event exceed five thousand dollars.

SEC. 2. That the bonds shall be signed by the county commissioners, or a majority of them, and countersigned by the county auditor, and said bonds shall not be disposed of at less than their par value.

SEC. 3. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

For the relief of Samuel Ketchum, treasurer of Coshocton county.

Whereas, on the 21st day of January, 1859, Samuel Ketchum, treasurer of Coshocton county, in the discharge of his duties as treasurer of said Coshocton county, was violently overpowered and the treasury of said county robbed of a large amount of public moneys, without the fault or complicity of the said treasurer—thereby creating a large deficiency of the public revenue, for which the said treasurer and his sureties are supposed to be liable by law; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the auditor of state is hereby authorized and directed to settle with said Samuel Ketchum for the amount of money due to the state for state purposes, so stolen as aforesaid, and to credit the said Ketchum with the amount so lost, to be ascertained on the statement of the auditor and treasurer of said county.

SEC. 2. The commissioners of Coshocton county are hereby authorized to settle with the said Ketchum for all moneys belonging to the county for county, school, road, bridge, building and other purposes, and to credit him with the amount of moneys so stolen, and discharge him and his sureties from all liability on account of any deficiency caused by such robbery.

SEC. 3. The several township authorities, the authorities of municipal corporations and boards of education within the said Coshocton county are hereby authorized in like manner to release and discharge the said Samuel Ketchum and his sureties from all liability on account of moneys so stolen, for the various township, corporation and educational purposes.

SEC. 4. Nothing in this act shall be construed to impair the right of any of the authorities aforesaid to claim and demand their proportion of any part of the funds so stolen which may be at any time recovered.

SEC. 5. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To authorize the incorporated village of New Richmond, in Clermont county, to borrow money to erect a town hall in said village.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the incorporated village of New Richmond, in Clermont county, is hereby authorized to borrow upon the faith and credit of said village, a sum or sums of money not exceeding two thousand dollars, at a rate of interest not greater than six per cent. per annum, which money when so borrowed shall be expended in the erection and completion of a town hall for the use of said village.

SEC. 2. That all loans negotiated by said incorporated village in pursuance of this act, shall be evidenced by the bonds or certificates of said village, which shall be under the corporate seal of said village, and signed by the mayor and countersigned by the recorder of said village. Said bonds or certificates shall be negotiable, and shall not be disposed of by said incorporated village for less than their par value, and shall be payable at such times and places as may be agreed upon by the parties—not exceeding five years from the date of said bonds or certificates.

SEC. 3. That the recorder of said incorporated village shall keep a register showing the date, number and amount of each of the bonds issued under this act, and of the time when the same shall become due and payable.

SEC. 4. That for the purpose of meeting the annual interest upon said bonds, and for the payment of the principal when said bonds shall

mature, said incorporated village is hereby authorized to levy upon the taxable property of the inhabitants of said village an annual tax: provided, that such taxes shall not exceed the aggregate sum of five hundred dollars in any one year.

SEC. 5. This act shall be in force upon its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To extend the time of payment for school section sixteen, Ludlow township, Washington county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That a further period of five years from the day the respective installments fall due, be and the same is hereby given to the purchasers of school section of land number sixteen, Ludlow township, Washington county, for the payment of the principal of the purchase money thereof: provided, that the interest and taxes thereon shall be punctually paid according to law; and provided further, that the auditor of said county may, at any time, require additional security for the payment of the principal and interest, if in his opinion the public interest may require it.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To provide for the regulation and support of the common schools in the city of Cleveland.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the city council of the city of Cleveland are hereby authorized and required, at the expense of said city, to provide for the support and regulation of the common schools of said city, in the manner prescribed by the provisions of this act.

SEC. 2. That the qualified electors of each ward within the said city of Cleveland, shall, on the first Monday of April, 1859, and annually thereafter, elect, by a plurality of votes, one judicious and competent

person, who shall at the time be a qualified voter in such ward, to manage the public schools of said city; and said persons so elected, shall constitute and be known as the board of education for the city of Cleveland; and said persons, so elected, shall hold their office for one year, and until their successors are elected and qualified.

SEC. 3. The board of education shall enter upon the duties of their office on the first Tuesday after their election, and shall be sworn to a faithful discharge of the duties of their office; they shall also be judges of the election returns and qualifications of their own members; they shall determine the rules of their proceedings, and make such by-laws and regulations for their own government, not inconsistent with this act and the laws of this state, as they may deem proper and expedient: they shall keep a journal of their proceedings, which shall be open to the inspection and examination of any citizen, and may compel the attendance of absent members in such manner and under such penalties as they shall see fit to prescribe; they shall elect from their own body a president and secretary, and appoint from the qualified voters of said city a superintendent of schools, prescribe their duties, and fix their compensation; they shall meet once in every week, and a majority shall constitute a quorum; they shall have power to fill all vacancies in their own body, and declare the seat of any member vacant, who shall have been absent without permission for four consecutive weeks from the regular meetings of said board.

SEC. 4. It shall be the duty of the city council of the city of Cleveland to provide and support such number and grade of schools in said city as may be necessary to furnish a good common school education to all the children resident therein, between the age of six and twenty-one years. And for the purpose of affording the means of a more advanced education, one high school and branch shall be established and maintained at the expense of the city; in which high school and branch instruction may be given in such of the languages and higher branches of learning as the board of education may direct; and to which pupils, residents of the city, shall be admitted and graduated, or dismissed under such rules and regulations as the board may prescribe.

SEC. 5. The board of education shall, on or before the first regular meeting of the city council in May, of each year, cause to be certified to them an estimate of the amount necessary to be raised for school purposes, which amount may be increased or diminished by the city council as they shall see fit; but nothing in this act shall be so construed as to allow the city council of the city of Cleveland to levy a greater tax for school or other purposes, than is now allowed by the provisions of section one of an act entitled "an act prescribing the rates of taxation for state, county, township, city and other purposes," passed April 17, 1857.

SEC. 6. The board of education shall have the management and control of the public schools of the city, establish grades, employ or dismiss teachers and other persons, when necessary, and fix their compensation. They shall provide fuel, school apparatus, books for school libraries, stationery and school furniture; provide for repairs of school buildings, fences, and incidental wants; but no expense for books, school apparatus, school furniture, or repairs, for any one school or school building, shall

exceed fifty dollars, without being first submitted to the city council for approval. They may provide a suitable number of evening schools during the fall and winter months, for the instruction of such youth over ten years of age as are prevented, by their daily avocations, from attending day schools; and make such rules and regulations as may be necessary and proper for their government and management.

SEC. 7. The board of education shall have power to fix or alter the boundaries of school districts in said city, and to form new districts when the public convenience requires it, subject to the approval of the city council. They shall, every year, in the month of September, cause to be taken an enumeration of all the unmarried youth between five and twenty-one years of age, residing in the several school districts, or wards, of the city; and on, or before, the tenth day of October following, certify the same to the auditor of Cuyahoga county; and such enumeration shall, until another be taken, form the basis for the city portion in the annual distribution of the state school fund. And the said board of education shall fix the school year, and determine the times and duration of all the vacations thereof; they shall provide for an annual examination of the schools, and at the close of every school year make a full report to the city council of the condition of the schools under their charge and a particular acount of their administration.

SEC. 8. It shall be the duty of the board of education to recommend to the city council the names of three suitable persons, in each ward, for a visiting committee, to be appointed by the council, whose duties shall be defined by the board. The board shall also appoint three suitable persons, residents and citizens of said city, of competent learning and ability, who shall constitute a board of examiners, whose duty it shall be to meet at least once in every month, examine the qualifications, competency, and moral character of all persons desirous of becoming teachers in the public schools of the city of Cleveland. A majority of the board shall have power to grant certificates thereof to such persons as, in their opinion, shall be entitled to receive the same; and no person shall be employed, except as a temporary supply, as teacher in any of the public schools of the city, until he or she has obtained from said board of examiners a certificate of qualifications, as to his or her competency and moral character; which board of examiners may be paid for such services as the city council may direct.

SEC. 9. Provision shall be made in the several districts of the city for the education, free of costs, of all children not less than six years of age, who may reside in said city; subject only to such regulations for the admission and dismissal, government and instruction, as the board of education may from time to time prescribe.

SEC. 10. That if any person shall mar, deface or injure any school house, out-building, fence, furniture, or other property belonging to, or in the possession of either of the schools of said city, or of any scholar of either of said schools, every person so offending shall forfeit and pay, for each offense, a fine of not less than five, nor more than fifty dollars, to be recovered in a civil action before the mayor or police judge of the city; and for all injury done as aforesaid, by any scholar or minor, the parent or guardian of such minor or scholar, may be obliged to pay treble the amount of damages occasioned thereby, to be recovered in

a civil action before said mayor or police judge, at the instance of said secretary or superintendent, in the name of the city; and all fines or damages collected by virtue of this section shall be paid into the city treasury, and be appropriated for the benefit of schools.

SEC. 11. It shall be lawful for the city council to establish one or more industrial schools in said city, for the benefit of destitute and neglected children, and provide by ordinance for the course of instruction in the branches of a common school education, and in the industrial arts and employments which shall be taught and pursued therein, and for the support, management and government of such school.

SEC. 12. The city council of said city of Cleveland shall have power, and it is hereby made their duty, to pass all such ordinances as may be necessary to carry into full effect the provisions of this act, and such as may be necessary for the management and regulation of the public schools of said city, not inconsistent with this act.

SEC. 13. That the act entitled "an act for the better regulation and support of schools in the city of Cleveland and for other purposes," passed February 18, 1848, be and the same is hereby repealed.

SEC. 14. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

AN ACT

To make the incorporated village of Jamestown a separate road district.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the incorporated village of Jamestown, in Greene county, be and the same is hereby constituted a separate road district.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To authorize the commissioners of Hamilton county to contract for the building of a roadway or bridge for public use across Mill creek in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Hamilton county be and are hereby authorized to contract with the proper officers of the Cincinnati and White-

water canal company for the purpose of building a roadway or bridge for the use of the public over the new aqueduct now being built by said company over Mill creek near its mouth: provided, that said contract shall not involve a greater expenditure than five thousand dollars at any one time.

SEC. 2. For the purpose of carrying out said contract, said commissioners are hereby authorized to appropriate out of the county treasury a sum of money not exceeding five thousand dollars at any one time, and if it become necessary, they are hereby authorized to levy a tax for the purpose of raising said fund, on the taxable property of said county.

SEC 3. This act shall take effect on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To authorize the commissioners of Lucas county to increase the tax levy for the purpose of meeting current expenses.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Lucas county be and they are hereby authorised to levy a tax on the taxable property of said county, not exceeding one mill on the dollar, in addition to any tax now authorized by law, for the purpose of paying the current expenses of said county.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To authorize the commissioners of Henry county to borrow money to pay the county debt.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of Henry county be and they are hereby authorized to borrow a sum or sums of money, not exceeding in the aggregate eight thousand dollars, to pay the county debt of said county, and to issue bonds of not less than one hundred dollars each, bearing a rate of interest not exceeding six per cent. per annum, payable semi-annually, and redeemable at such time as the county commissioners may designate on the face of said bonds.

SEC. 2. That the bonds shall be signed by the county commissioners and countersigned by the county auditor, and said bonds shall not be disposed of at less than their par value; and the money arising from the sale of said bonds shall be deposited in the county treasury, and shall be applied only to the redemption of the outstanding county orders of the county.

SEC. 3. That in lieu of the authority contained in the first section of this act to issue bonds, the county commissioners may direct the county auditor to consolidate all outstanding county orders presented to him for that purpose by the holders thereof, into amounts of not less than one hundred dollars each, taking up and cancelling the orders so consolidated, and issuing therefor a new order bearing interest at the rate of six per cent. per annum payable semi-annually, and said county commissioners are hereby authorized to levy any additional amount of county tax that may be necessary to pay the semi-annual interest accruing on bonds described in the first and second sections of this act, or on orders consolidated as prescribed in this section, which tax when so collected, shall be appropriated specifically for and applied to no other purpose than the payment of said interest.

SEC. 4. This act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 28, 1859.

AN ACT

To provide for the removal of the seat of justice of Perry county, Ohio, from the town of New Lexington to the town of Somerset, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the taking effect of this section of this act as hereinbefore provided, the seat of justice in the county of Perry shall be removed from the town of New Lexington, and shall be permanently fixed, until otherwise provided by law, at the town of Somerset in said county.

SEC. 2. That the foregoing section of this act shall take effect and be in force when, and so soon as the same shall be adopted by a majority of all the electors of said Perry county, voting at the next general election after the passage thereof, as hereinafter provided.

SEC. 3. That the electors of said Perry county, at the next general election after the passage of this act, shall indorse or otherwise place on their tickets either the words, "for removal," or "against removal," and if a majority of all the electors of said Perry county voting at said election, shall vote "for removal," the first section of this act shall thereupon be considered and holden to be adopted by such majority: Provided, that all tickets upon which the words "for removal," shall not be indorsed, or otherwise placed, shall be taken and considered as votes against removal,

as fully as though the words, "against removal," were indorsed, or otherwise placed thereon.

SEC. 4. That the judges and clerks of election in the several townships in said county, at the said general election, shall cause all the votes that may be so given for removal, or against removal, to be correctly counted, in the same manner that other votes are by law required to be counted (in doing which, all tickets upon which the words "for removal," shall not be indorsed, or otherwise placed, shall be counted as votes against removal as fully as though the words, "against removal," were indorsed, or otherwise placed thereon), and they shall enter and certify in the poll books, respectively, of said general election, the number of votes so counted for removal, and the number so counted against removal, which poll books shall be returned and opened, as required by the acts regulating said general election, and the opening of the returns thereof, and the officers opening the returns of said election, shall, at the same time that they make, certify and sign the abstracts required by law, also make, certify and sign a separate abstract of all the votes so returned for removal, or against removal, showing the number so given in each township and the footings or aggregate numbers so given in all the townships, which abstract shall be forthwith deposited in the clerk's office of said county, and shall be forthwith recorded by the clerk, in the journal of the court of common pleas of said county, which record, or a duly certified copy thereof, shall be taken and received as legal evidence, for all purposes, of the result of said voting.

SEC. 5. The sections of this act subsequent to the first section, shall take effect and be in force on the passage of this bill.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Providing for making a general index for the clerk's office of the court of common pleas of Gallia county.

WHEREAS, The general index in the office of the clerk of the court of common pleas of Gallia county, has been destroyed by fire; therefore,

SECTION. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the clerk of the court of Gallia county be authorized to make a general index of all cases decided in the said court of common pleas of Gallia county, from and after the first Monday in June, one thousand eight hundred and twenty-six, to the present time, according to the laws now in force, and that for his services he shall receive a reasonable compensation, to be allowed by the county commissioners of said county, and paid out of the county treasury.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To provide for the sale of Asbury Seminary at Chagrin Falls.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the president of the corporation known as the Asbury Seminary, at Chagrin Falls, Cuyahoga county, Ohio, is hereby authorized to sell and convey to any person or persons, or body corporate, lot number (5) five, in the Hallack and Gardiner tract, formerly embraced in the township of Russel; said lot lying on the west of Philomathean street, being twenty rods in front, and running back sixteen rods, and containing two acres; said lot lying in the village of Chagrin Falls, Cuyahoga county, Ohio. Said president is hereby authorized to execute all deeds, contracts, or other instruments of writing, necessary to carry out the provisions of this act; provided, the sale of said lot shall not be made until at least seven of the board of directors of said corporation, at a regular meeting called in accordance with the by-laws of said corporation, shall agree to said sale, and the terms upon which the same shall be made.

SEC. 2. This act shall take effect from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Authorizing the commissioners of Hamilton and Clermont counties to build a bridge over the Little Miami river, at Symmes' Town, in Hamilton county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Hamilton and Clermont counties be and they are hereby authorized and empowered to build a bridge across the Little Miami river at Symmes' Town, in Hamilton county.

SEC. 2. That for the purpose of building said bridge, the commissioners of Hamilton county may expend a sum not exceeding four thousand dollars, and the commissioners of Clermont county may expend a sum not exceeding three thousand and five hundred dollars; and if the estimate cost of said bridge shall amount to over seven thousand and five hundred dollars, the sum of five hundred dollars shall be subscribed on behalf of Clermont county, by good and solvent subscribers, and shall be paid to said commissioners within six months after said commissioners shall have expended the whole sum of seven thousand and five hundred dollars.

SEC. 3. That as soon as the commissioners, or a majority of them, of each county, shall agree to build said bridge provided for in the first section, they shall give at least twenty days notice, in two newspapers in Hamilton county and two in Clermont county, advertising for proposals to build said bridge, and upon the opening of said proposals, the said commissioners shall award the contract, or contracts, to the person or

persons who, in the opinion of said commissioners, may be the best bidder or bidders therefor; and upon the completion of said contract, or contracts, the said commissioners shall be authorized to appropriate out of the treasuries of said counties the said sums, as provided in section two.

SEC. 4. That the commissioners of Hamilton and Clermont counties shall keep said bridge in repair, by levying an amount of toll necessary for the same, and for no other purpose, or may keep the same in repair in any other way that to them shall seem best.

SEC. 5. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To authorize the city council of the city of Hamilton to appoint commissioners to drain Old river, and for other purposes.

Whereas, Pursuant to the provisions of an act entitled "an act to authorize the auditor of Butler county to levy a tax for certain purposes," passed March 11th, 1843, a tax was levied upon certain lands within and around the city of Hamilton, in the county of Butler, therein described, and for the purposes mentioned in said act, and the same collected, and so much thereof applied as was necessary to drain the water which flowed from the Hamilton basin, and one-half of the residue expended in draining and filling up certain ponds south of said city, as by the said act it was directed; and

Whereas, The other half of the said residue, which the said act provided should be applied to the draining or improvement of Old river north of said city, with the interest which has accrued thereon, remains unexpended; and

Whereas, The time has expired within which, by the said act, the mayor and trustees of the town of Hamilton were authorized to appoint persons to superintend the said improvement; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the city council of the city of Hamilton are authorized, at any regular meeting, to appoint three freeholders, residing within the district upon which the tax aforesaid was levied, who shall have power and whose duty it shall be to collect and receive the money so collected and not expended, with the interest which may have accrued thereon, and to expend the same, or so much thereof as may be necessary for that purpose, to the draining or improvement of Old river north of the said city of Hamilton, according to the provisions of the act aforesaid.

SEC. 2. And be it further enacted, That if the whole of said money

shall not be necessary to drain or improve Old river, the said freeholders are authorized to apply the residue to such other improvement in the vicinity of Old river as in their judgment will tend to secure the health and comfort of the residents of said city; said freeholders to make settlement of their accounts with the said city council of the city of Hamilton.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

Authorizing the school directors of school district number eight, in Madison township, in Butler county, to sell a school lot in the incorporated village of Miltonville, in said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the school directors of school district number eight, in Madison township, in Butler county, be and the same are hereby authorized to sell and convey the lot in the incorporated village of Miltonville, in said township, known as the school lot donated to said incorporated village by Richard Crain, and to apply the proceeds of such sale to the use and benefit of said school district number eight.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

AN ACT

To authorize the commissioners of Delaware county to borrow money to supply the deficiency in the treasury of said county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the county commissioners of Delaware county, for the purpose of raising money to supply the deficiency in the treasury of said county, occasioned by the defalcation of the late treasurer of said county, are authorized to issue the bonds of the county, in sums not less than one hundred dollars, bearing interest payable half yearly, and redeemable within ten years from the date thereof. Said bonds shall be signed by the commissioners, and attested by the auditor and seal of said county. Said bonds shall be negotiable, but they shall not be disposed of at a less sum than their par value: provided, that the aggregate amount of said bonds shall not exceed ten thousand dollars.

SEC. 2. The county commissioners of said county are authorized and empowered to levy such taxes on all the taxable property of said county as will be sufficient to pay the interest and principal of said bonds, as the same shall become due.

SEC. 3. This act to take effect from and after its passage.

S. W. GILSON,
Speaker pro tem. of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 30, 1859.

AN ACT

To authorize the commissioners of Pike county to borrow money for bridge purposes.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Pike county be and they are hereby authorized and empowered to borrow money, on the faith and credit of said county, any sum or sums of money not exceeding in the aggregate the sum of ten thousand dollars, at a rate of interest not exceeding six per centum. That said money or any part thereof, when so borrowed, shall be expended by said commissioners in such manner and upon such conditions as they may direct, in the erection and completion of a bridge across the Scioto river at the town of Piketon, in said county.

SEC. 2. That all loans negotiated by said commissioners in pursuance of this act, shall be evidenced by the bonds or certificates of said county, which shall be signed by the commissioners and countersigned by the auditor of said county. Said bonds or certificates shall be negotiable, and shall not be disposed of by said commissioners for less than their par value, and shall be payable at such times and places as may be agreed upon by the parties—not exceeding five years from the date of said bonds or certificates. That the auditor of said county shall keep a register, showing the date, number and amount of each of the bonds issued under this act, and of the time when the same shall become due and payable.

SEC. 3. That for the payment of the principal and interest of said bonds or obligations, issued under the provisions of this act, it is hereby made the duty of the commissioners of said county to add such per centum upon the tax duplicate of the county annually, over and above all other taxes, as shall be sufficient to pay the accruing interest semi-annually on said bonds or obligations, and the principal as the same shall fall due; and the money so levied, when the same shall be collected, shall be applied to the payment of said bonds or obligations, and to no other purpose.

SEC. 4. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To amend the act entitled "an act to incorporate the Franklin and Warren railroad company."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the second section of the act entitled "an act to incorporate the Franklin and Warren railroad company," passed March 10, 1851, be and the same is hereby amended so as to read as follows: Sec. 2. That the capital stock of this company, the name of which has been changed to that of the Atlantic and Great Western railroad company, shall be four millions of dollars; and the company shall have full power to construct and maintain a railroad from the village of Franklin, in the county of Portage, in an easterly direction through the township of Warren, in the county of Trumbull, and further to a point on the east line of this state, in said last mentioned county, at or near the village of Orangeville, there to connect with the same gauge with the road of the Atlantic and Great Western railroad company of Pennsylvania; also with full power to construct and continue said first mentioned railroad from said point of beginning at the village of Franklin in a westerly or southwesterly direction through Akron, in the county of Summit, Ashland, in the county of Ashland, Mansfield, in the county of Richland, Urbana, in the county of Champaign, and thence further in the same direction to connect with any other railroad in this state which the directors of the company shall find advisable; provided, however, that nothing herein contained shall in any manner whatever have the effect to change, invalidate or in any wise prejudice the rights of said Atlantic and Great Western railroad company already acquired.

SEC. 3. That the second section of the aforesaid act entitled "an act to incorporate the Franklin and Warren railroad company," be and the same is hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

Supplementary to an act entitled an act defining the jurisdiction and regulating the practice of probate courts in the counties of Erie, Lucas, Richland, Holmes, Montgomery, Delaware, Franklin, Scioto and Jefferson, passed April 12, 1858, and to extend the operation of said act to the counties of Meigs, Mercer, Auglaize, Lawrence, Harrison, Henry, Licking, Belmont, Stark, Ottowa and Williams.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the provisions of an act entitled "an act defining the jurisdiction and regulating the practice of probate courts in the counties of Erie, Lucas, Richland, Holmes, Montgomery, Delaware, Franklin, Scioto and Jefferson," passed April 12, 1858, be and the same are hereby extended to the counties of Meigs, Mercer, Auglaize, Lawrence, Harrison, Henry, Licking, Belmont, Stark, Ottowa and Williams.

SEC. 2. That this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To authorize the trustees or directors of Aurora Lodge No. 48, Mt. Vernon Chapter No. 23, Solomon Council No. 5, Calvary Encampment No. 13, in the city of Portsmouth and state of Ohio, to borrow money.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the trustees or directors of Aurora Lodge No. 48, of Mt. Vernon Chapter No. 23, of Solomon council No. 5, and of Calvary Encampment No. 13, masonic bodies corporate, under the act of May 1, 1852, be and are hereby authorized and empowered, if they shall resolve to do so, to borrow any sum of money not exceeding four thousand dollars, for the purpose of completing the edifice now erected on their premises in the city of Portsmouth, and for paying off their present indebtedness; for which said loan the trustees or directors aforesaid, and their successors in office, may issue such certificates or bonds as may be agreed upon by the parties to the contract of loan, bearing interest not to exceed six per cent. per annum, and redeemable at such time (not exceeding twenty years) and at such place as said trustees or directors may designate on the face of such certificates or bonds.

SEC. 2. The trustees or directors aforesaid shall provide for the payment of the interest on the loan herein authorized, and for the final redemption of the debt within the period for which the same may be contracted, and for that purpose may pledge the property, revenues and faith of the said masonic bodies corporate, in such manner and upon such terms and conditions as may be necessary to consummate said loan.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To authorize the commissioners of Belmont county to loan money.

WHEREAS, There is now remaining in the treasury of the county of Belmont, about the sum of twenty thousand dollars, which has been levied and collected for the purpose of paying off the bonds, issued here-

tofore by the commissioners of said county, in payment of the capital stock of said county in the Central Ohio railroad company, and which money the holders of said bonds refuse to receive until the 1st day of January, 1862, when said bonds will become due. Therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That any money now remaining and being in the treasury of the county of Belmont, or that may be in the treasury at the next semi-annual settlement of the county auditor with the treasurer of said county, for the purpose of paying off the bonds of said county, issued for the payment of the stock of said county in the Central Ohio railroad company, may be loaned by the county commissioners of said county of Belmont until the first of January, 1862, and for that purpose said county commissioners are hereby authorized to receive as security for the repayment of such loan or loans, notes or bonds, secured by mortgages upon real estate, of at least twice the value exclusive of improvements, or upon such other security as said commissioners may deem proper to secure the repayment of such money when it becomes due, at a rate of interest not exceeding seven per cent. per annum.

SEC. 2. This act to take effect and be in force from and after its passage.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

AN ACT

To amend an act to regulate the manner in which the grand and petit jurors shall be drawn and summoned in Hamilton county, passed May 1, 1852 (50 vol L. L. 9).

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That an act to regulate the manner in which grand and petit jurors shall be drawn and summoned in Hamilton county, passed May 1, 1852 (50 L. L. 9), be amended so as to read as follows: Sec. 1. That it shall be the duty of the clerk of the court of common pleas of the first district, acting in conjunction with the sheriff of Hamilton county, as soon as reasonably may be after the passage of this act, if he has not already so done, to draw from the names selected and deposited in his office as grand jurors, fifteen ballots, on which such names are written; and the fifteen persons, so selected, shall be summoned forthwith by said sheriff to appear before the court of common pleas of Hamilton county, to serve in said court as grand jurors, with such powers, duties, and privileges, as are given, imposed, or secured by the general law regulating grand juries in the state of Ohio, and subject to all the provisions of the general law.

SEC. 2. That it is hereby made the duty of the judges of the court of common pleas of Hamilton county, as soon after the passage of this act as practicable, and annually thereafter, to fix and apportion among the

several wards of the city of Cincinnati, and townships of said county, according to the last state census taken in said county, the number of good and judicious persons, having the qualifications of electors, required to serve as petit jurors in said court, for trial of civil cases, and petit and grand jurors for the trial of criminal cases, to be selected by the township and ward trustees for the ensuing year, as soon after this as practicable, and thereafter in accordance with the provisions of the act entitled "an act relating to juries," passed February 9, 1831; and said judges of the court of common pleas shall also fix and apportion the number of jurors as aforesaid, with the qualifications aforesaid, to serve as petit jurors in the district court for said county, to be selected by the said trustees as aforesaid; and said trustees shall return a list of the names of the persons so selected to the clerk of said court of common pleas, whose duty it shall be to return the names of the persons so selected and returned, in a book kept for that purpose; and the said court shall respectively determine and direct, by an entry on the journal thereof, the number, time, and manner of drawing and summoning the juries for the same.

SEC 3. That sections 1st, 2d and 3d of the act entitled "an act to regulate the manner in which grand and petit jurors shall be drawn and summoned in Hamilton county," passed May 1, 1852, (50 vol. L. L. 9,) be and the same are hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To authorize the town council of the town of Ca'ais, in the county of Monroe, to levy taxes for the purpose of improving the streets in said town.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the town council of the incorporated town of Calais, in Monroe county, Ohio, shall have full power to levy and collect taxes on all the property, both personal and real, within the corporate limits of said town, not exceeding five mills on the dollar, for the purpose of improving the streets and sidewalks in said town.

SEC. 2. This act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To change a portion of the line between the counties of Clermont and Warren.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there is hereby annexed to the county of Clermont, to form a part of the township of Wayne, in said county, that portion of Warren county which lies within the limits of Epple's survey number 764, to wit: beginning at the corner of Warren and Clinton counties in the line of Clermont county, thence with the line of Warren and Clinton counties to where it intersects said survey line, thence with said survey line to the northeast corner of said survey, thence a westerly direction with said survey line to where it intersects the Clermont and Warren county line.

SEC. 2. This act shall be submitted to the electors of said counties at the election to be held on the second Tuesday of October, 1859. The ballots cast for or against the change shall be written or printed, or partly written and partly printed; those for the change to contain the words, "change, yes;" those against the change, the words, "change, no" Said ballots shall be counted and return thereof be made to the same offices and in the same manner as provided as to the other votes cast at said election. In case this act shall be adopted by a majority of all the electors of each of said counties voting at said election, the same shall take effect and be in force from and after the first day of November next.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To authorize the commissioners of Warren county, Ohio, to purchase a certain bridge therein named.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the commissioners of Warren county, Ohio, are hereby authorized, if they deem it right and proper, to purchase the toll bridge belonging to the Cincinnati, Montgomery, Hopkinsville, Rochester and Clarksville macadamized turnpike road company, which crosses the Little Miami river at Foster's crossings, in said county, so that the same shall forever thereafter be a free county bridge.

SEC. 2. This act shall be in force on its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To authorize the lessees of Ministerial section twenty nine and school section sixteen, in Homer township, Morgan county, to surrender their leases and receive deeds.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the lessees, assignees or equitable holders of any part or parcel of ministerial section twenty-nine and school section sixteen, township number seven, range thirteen, in Homer township, Morgan county, be and they are hereby authorized to surrender their permanent or other leases to the state of Ohio for the use of said township, the surrender to be made in writing, under seal, to the auditor of Morgan county, who is hereby required to enter in a book to be by him provided for that purpose, the date of the original lease, the date of the assignment or other evidence of title, the name of the original lessee, the name of the person surrendering the same, a full description of the tract surrendered, and the rate per acre at which said tract was valued at the last appraisement thereof under said lease.

SEC. 2. That on surrendering of any such lease, such lessee, assignee, or equitable holder shall receive from the auditor of said county a certificate of purchase for the tract embraced in the lease so surrendered, by paying therefor the same price per acre as the same was valued at when last appraised under said lease, in the manner following: one-fourth of said purchase money shall be paid at the time of the surrender, and the residue shall be divided into three equal installments, one of which shall be paid annually from and after the date of the surrender until the whole is paid, the deferred payments to bear interest at six per cent per annum, payable annually: provided, the person surrendering shall be permitted to pay the whole of the purchase money at any time before the same becomes due; and provided further, that no person shall be permitted to make such surrender until all rents due under said leases shall have been fully paid.

SEC. 3. That all payments made under the provisions of this act shall be made to the treasurer of said Morgan county, and the person making the same shall receive from said treasurer a receipt therefor, which receipt he shall deliver to said auditor, who shall file the same in his office and charge the treasurer therewith, and give to the person making such payment a certificate of the same.

SEC. 4. That the treasurer of said county shall keep separate accounts of all moneys received under the provisions of this act—when, from whom and on what account each item was received; and it shall be the duty of said county treasurer to make out and transmit, on or before the first Monday in January annually, a transcript of said account to the auditor of state, and the said county treasurer shall pay over annually to the treasurer of state, at the time of making his settlement with the treasurer of state in February, all the money that shall come into his hands under the provisions of this act during the preceding year.

SEC 5. That when any person shall surrender his lease as aforesaid, said county auditor shall give to such lessee a certificate specifying the date of the surrender, the name of the person surrendering the same, a description of the land embraced in the lease surrendered, the amount

of the purchase money, the number of installments, the amount paid, and when the several installments will become due.

SEC. 6. That when said lessee, or any person holding title under him, shall have paid in full for such tract of land under the provisions of this act, the said county auditor shall give the person entitled thereto a final certificate, particularly describing the parcel of land so paid for, and the several sums that have been paid thereon, and upon the presentation of said certificate to the auditor of state, the said auditor of state shall make out a draft of a deed to the person or persons entitled thereto, which he shall deliver to the governor, which said deed shall be signed by the governor, sealed with the great seal of the state of Ohio, and countersigned and recorded by the secretary of state, and delivered to the person entitled thereto on demand.

SEC 7. That if any person who shall have surrendered any such lease as herein provided, or his assignee, shall fail for one year to make payment of any installment after the same becomes due, the said county auditor, after giving sixty days notice in a newspaper printe l in said county, of the time and place and terms of sale, and which notice shall describe the premises to be sold, shall proceed to sell said tract, with all the improvements thereon, at public auction, at the door of the court house in said county, to the highest bidder, for cash: provided, the same shall not be sold for a less sum than remains unpaid of the purchase money and costs of sale; and after paying out of the proceeds of said sale, the costs and purchase money unpaid, the said auditor shall pay over to the person or persons, or their legal representatives, on demand, any surplus that may remain, and the purchaser of such sale shall be entitled to receive a deed from the governor, on the certificate of the auditor, the same as if he had been the holder of the lease and complied with all the provisions of this act.

SEC. 8. That all moneys paid into the state treasury under the provisions of this act shall be appropriated and the proceeds paid over in the same manner as money arising from the sale of other ministerial and school lands are by the general laws in force appropriated and paid over: provided, that no lease shall be surrendered as aforesaid, until said lands shall have been re-appraised and re-let, according to the provisions of the act entitled "an act to provide for re-leasing ministerial and school sections in Homer township, Morgan county," passed February 25, 1850.

SEC 9. This act shall take effect and be in force from and after its passage

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

For the support and better regulation of common schools in school district No. 2, in Hamilton township, Warren county, Ohio.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the provisions of an act entitled "an act for the better regulation of the public schools in cities, towns," etc., passed February 21, 1849, and the act amendatory thereof, passed March 13, 1850, and entitled "an act to amend the act for the better regulation of the public schools in cities, towns," etc., be and the same are hereby extended to school district No. 2, in Hamilton township, Warren county, Ohio.

SEC. 2 If the legal voters in said district shall see fit to adopt the provisions of the acts aforesaid, in manner and form as prescribed in the second and third sections of said act, passed February 21, 1849, and said district shall become duly organized, in accordance with sections five and six of said last mentioned act, then thereafter said district shall be known and recognized in law as a single school district, by the name of the "board of education of the village of Hopkinsville," and shall be entitled to all the powers, rights, privileges and franchises, for educational purposes, conferred by the acts hereinbefore named, or which may hereafter be conferred by law upon cities, towns and villages; and the board of education shall have like powers, rights and privileges, and perform like duties, as boards of education of cities, towns and villages, under the acts aforesaid, or which may hereafter be conferred on them by law.

SEC. 3. This act shall take effect and be in force upon its passage; but all acts done, rights acquired, or liabilities incurred, by said district No. 2, shall not be affected by this act.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

AN ACT

To amend section 4 of an act passed March 26, 1859, entitled an act to provide for the regulation and support of common schools in the city of Cleveland.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the 4th section of an act passed March 26, 1859, entitled an act to provide for the regulation and support of the common schools in the city of Cleveland, be so amended as to read as follows: Section 4. It shall be the duty of the city council of the city of Cleveland to provide and support such number and grade of schools in said city as may be necessary to furnish a good common school education to all the children resident therein between the age of six and twenty-one years; and for the purpose of affording a more advanced education, two high schools shall be established and maintained at the expense of the city, in which high schools instruction may be given in such of the languages and higher branches of learning as the board of education may direct; and to which

pupils residents of the city shall be admitted, and graduated or dismissed under such rules and regulations as the board may prescribe.

SEC. 2. That said original section 4 be and the same is hereby repealed, and this act to take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April, 2 1859.

AN ACT

To authorize the trustees of Jackson township in Muskingum county, to sell a certain lot in the town of Frazeysburg.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of Jackson township, Muskingum county, or their successors in office, be and are hereby authorized and empowered to sell as such trustees, as hereinafter provided, and convey by a good and sufficient deed of conveyance, the following described lot situate in the town of Frazeysburg, in said county of Muskingum, bounded on the east by State street, on the south by Second street, on the west by an alley, containing one hundred square rods, and known and distinguished as the "public square," in said town of Frazeysburg.

SEC. 2. That said trustees or their successors in office, are hereby authorized and required, on giving thirty days notice in some newspaper published in said county of Muskingum, to sell the said lot, and it is further provided, that the said trustees shall apply the proceeds of the sale of said lot to the erection of a school house in the sub-district in which said lot is situated.

SEC. 3. That this act shall take effect from and after its passage

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Defining the jurisdiction of probate courts in criminal cases in the counties of Pike, Portage, Jackson, Clermont, Carroll, Gallia, Butler, Lucas, Hocking, Defiance, Brown, Lorain, Coshocton and Columbiana.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That in the counties of Pike, Portage, Jackson, Clermont, Carroll, Gallia, Butler, Lucas, Hocking, Defiance, Brown, Lorain, Coshocton and Columbiana, the probate courts, in addition to the jurisdiction now conferred by law, shall have concurrent jurisdiction with justices of the peace, in the punishment of all crimes and misdemeanors, and such other and further jurisdiction as is hereinafter provided.

SEC. 2. When any person or persons charged with the commission of any crime or misdemeanor before any probate judge, by the provisions of this act, the punishment whereof is not capital, or imprisonment in the penitentiary, shall file with said court a written waiver of trial by jury, and an election to be tried by said court. Said probate judge shall thereupon have original and conclusive jurisdiction therein, and shall try and determine the same according to law.

SEC. 3. When any person or persons in any of the aforesaid counties shall be recognized to appear before the court of common pleas, to answer for the commission of any crime or misdemeanor, the punishment whereof is not capital or imprisonment in the penitentiary, or when any person or persons shall be committed to the jail of the county for want of bail upon any such charge, shall file with the probate judge of the county a written waiver of a trial by jury, and an election to be tried by said court, said probate judge shall thereupon have original and conclusive jurisdiction therein, and shall forthwith notify the clerk of said probate court and the prosecuting attorney of the county thereof; and thereupon said clerk shall certify all papers and transcripts pertaining to said prosecution, in his office as the clerk of the court of common pleas, to said probate court; provided, if the transcript shall not have been received by said clerk at the time of being notified as aforesaid, he shall certify the same so soon as the same shall be received, and so soon as the papers and transcript shall be certified as aforesaid, the prosecuting attorney of the county shall forthwith file in said court an information, setting forth briefly but distinctly, in plain and ordinary language, the charge against the accused person or persons, on which charge said person or persons shall be tried.

SEC. 4. That after the filing of the information aforesaid, the judge of the probate court shall forthwith fix a day at as early a period as the nature of the case will admit of, for the trial of such person or persons.

SEC. 5. When any person or persons, in any of the aforesaid counties, shall be charged with the commission of any crime or misdemeanor, the punishment whereof is imprisonment in the penitentiary, and shall be committed to the jail of the county for want of bail, and shall be examined by any probate judge, as an examining court, as is provided by law, and said court shall find that there are no good reasons why such person or persons should be recognized or committed to answer to such charge, but that such person or persons should be recognized or committed to answer for a crime or misdemeanor of lower grade, the punishment whereof is not by imprisonment in the penitentiary, and such person or persons shall file with such probate judge a written waiver of trial by jury and an election to be tried by said probate court, said court shall thereupon have conclusive and original jurisdiction thereof, and shall proceed in the same manner therein as is provided in section three of this act.

SEC. 6. When two or more persons shall be jointly charged and held for trial, for the commission of any crime or misdemeanor, the jurisdiction whereof is conferred upon probate courts by the provisions of this act, it shall be necessary for all of such persons charged and held, to file the written waiver and election herein provided for before the probate court shall have any jurisdiction therein.

SEC. 7. All prosecutions under the provisions of section one of this act, shall be instituted in the same manner as the same are now instituted before justices of the peace.

SEC. 8. All fines imposed by probate judges for crimes or misdemeanors, shall be paid into the county treasury as soon as the same shall be received

SEC. 9. In the exercise of its criminal jurisdiction, the probate court shall be open for business at all reasonable hours, when other official business of said court will admit of the same.

SEC. 10. If the defendant or defendants fail or refuse to answer the information or other charge preferred in any probate court, a plea of not guilty shall be entered.

SEC. 11. Continuances shall be granted in said courts upon good cause shown for such reasonable periods as the nature of the case may require.

SEC. 12. Any information filed in any probate court, may be amended at any time before or during the trial, upon such terms as the court may direct, and the prosecuting attorney, if he shall be satisfied that the state will fail in the prosecution, or if the prosecution shall fail to endorse the information when required to do so, may enter a nolle prosequi on the information.

SEC. 13. All papers and transcripts required in the court having jurisdiction of any crime or misdemeanor, into which any probate court may inquire as an examining court, shall be certified and deposited with the court having such jurisdiction, by the clerk of said probate court.

SEC. 14. In all proceedings under this act had in the probate courts, the clerk of the court of common pleas of the county, shall perform the duties of clerk of the probate court, and receive the same compensation therefor as for like services in the court of common pleas, and to be paid in the same manner.

SEC. 15. The fees of ministerial officers and witnesses for all services rendered in the probate courts, or by order of any probate judge, by the provisions of this act, shall be the same as is provided by law for like services in the court of common pleas, and shall be paid in like manner.

SEC. 16. All judgments of probate courts, whether of fine, or fine and imprisonment, or imprisonment only, shall be enforced in the same manner as judgments of the courts of common pleas.

SEC. 17. The probate judge shall make the prosecuting attorney of the county reasonable allowance as compensation for all services rendered in said probate court, by the provisions of this act: provided no such allowance shall be made until the expiration of the time for which the compensation of such prosecuting attorney is now fixed by the court of common pleas; provided, before the expiration of said time, the county commissioners may, if in their opinion such prosecuting attorney is entitled to additional compensation, make such allowance as they may deem reasonable and just.

SEC. 18. The probate judge shall be paid for his services in criminal cases such sum as the commissioners of the county may allow, not less than one hundred dollars per annum in any county, nor more than two hundred dollars, which sum shall be payable out of the county treasury.

Probate judges shall receive no further compensation whatever for services rendered by the provisions of this act.

SEC. 19. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To amend section one of an act passed March 31, 1859, supplementary to an act entitled "an act defining the jurisdiction and regulating the practice of probate courts in the counties of Erie, Lucas, Richland, Holmes, Montgomery, Delaware, Franklin, Scioto and Jefferson," passed April 12, 1858, and to extend the operation of said act to the counties of Meigs, Mercer, Auglaize Lawrence, Harrison, Henry, Licking, Belmont, Stark, and Williams.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That section one of the above recited act be so amended as to read as follows: Sec. 1. That the provisions of an act entitled "an act defining the jurisdiction and regulating the practice of probate courts in the counties of Erie, Lucas, Richland, Holmes, Montgomery, Delaware, Franklin, Scioto and Jefferson," passed April 12, 1858, be and the same are hereby extended to the counties of Meigs, Mercer, Auglaize, Lawrence, Harrison, Henry, Belmont, Stark, Ottawa and Williams.

SEC. 2. That said section one of the act passed as aforesaid, on the 31st day of March, 1859, be and the same is hereby repealed.

SEC. 3. That this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

Defining the jurisdiction of the probate court of Madison county, in criminal cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio,* That the provisions of an act entitled an act defining the jurisdiction of probate courts in criminal cases, in the counties of Pike, Portage, Jackson, Clermont, Carroll, Gallia, Butler, Lucas, Hocking, Defiance, Brown, Lorain, Coshocton and Columbiana, passed April 4, 1859, be and the same is hereby extended to the county of Madison.

SEC. 2. This act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

AN ACT

To amend an act passed March 20, 1851, entitled "an act incorporating the Xenia Mutual Insurance Company."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That the ninth section of an act, passed March 20, 1851, entitled "an act incorporating the Xenia Mutual Insurance Company," be so amended as to read as follows: Sec 9. Said company shall establish its office in the city of Cincinnati, in the county of Hamilton, and all policies issued by the same shall be signed by the president thereof, and countersigned by the secretary.

SEC. 2. The tenth section of said act shall be so amended as to read as follows: Sec. 10. If, from any cause, an election for trustee shall not be held on the day prescribed by the by-laws of the corporation, said company shall not be deemed dissolved, but an election may be held at such other time as the trustees may appoint, of which notice shall be given by publication in two or more newspapers of general circulation, published in the city of Cincinnati.

SEC. 3. The ninth and tenth sections of said act are hereby repealed; and this act shall be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To repeal the fifth, sixth, seventh and eighth sections of the act entitled "an act to incorporate the several turnpike companies therein named in Greene county."

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That sections five, six, seven and eight of the act entitled an act to incorporate the several turnpike companies therein named, in Greene county, be and the same are hereby repealed, saving to all persons natural and all artificial rights acquired under the sections hereby repealed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

AN ACT

To provide for the re-appraisement of school lands in Perry county.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That whenever, and so often as it may become necessary, pursuant to the laws authorizing the leasing of lands set apart within the county of

Perry for school purposes, to re-appraise any lot or tract of land set apart as aforesaid, which may have been leased for a term of years, it shall be lawful, and is hereby made the duty of the trustees of any original surveyed township in which any such lot or tract of land may be situated, to appoint three disinterested freeholders, not residing in such township, whose duty it shall be to appraise such lot or tract of land on actual view thereof, without reference to the improvements thereon, and within five days thereafter, to make out a report of such appraisement, and deliver the same to the clerk of the township in which such lands may be situated, and said appraisers shall receive for their compensation one dollar each per day, necessarily employed as aforesaid.

SEC. 2. That this act shall take effect and be in force from and after its passage.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

RESOLUTIONS.

JOINT RESOLUTION,

Relative to surplus documents and laws annually uncalled for from county auditors.

Resolved, by the General Assembly of the State of Ohio, That the secretary of state be and he is hereby directed to ascertain from the respective county auditors of the State, the average number of state documents and laws which annually remain in their offices uncalled for, and that he report the same to the general assembly.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

JOINT RESOLUTION,

Relative to printing extra copies of the governor's message.

Resolved, by the General Assembly of the State of Ohio, That there be printed thirteen hundred extra copies of the message of the governor; three hundred copies for the use of the governor, and one thousand for the use of the members of the general assembly.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

JOINT RESOLUTION,

Relative to printing certain documents in the German language.

Resolved, by the General Assembly of the State of Ohio, That for the use of

the members thereof, for distribution, there be printed in the German language fifteen hundred copies each of the reports of the auditor and treasurer of state, the reports of the trustees and officers of each of the benevolent institutions, the report of the directors and warden of the Ohio penitentiary, and the reform school reports.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

JOINT RESOLUTION,

Relative to printing report of comptroller of treasury.

Resolved, by the General Assembly of the State of Ohio, That two thousand copies of the report of the comptroller of the treasury be printed for the use of this general assembly.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

JOINT RESOLUTION,

Relative to joint convention for counting votes for attorney general.

Resolved, by the General Assembly of the State of Ohio, That the two houses meet in joint convention on January 7, 1859, at half-past two o'clock p. m., in the hall of the house, for the purpose of counting the votes cast at, and declaring the result of the election for attorney general held on the second Tuesday of October, 1858.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 12, 1859.

JOINT RESOLUTION,

Relative to appointment of committee on memorial of Gov. Samuel Medary.

Resolved, by the General Assembly of the State of Ohio, That the memorial of Gov. Samuel Medary, praying the legislature to authorize the payment of his claim against the state, for printing, be referred to a joint select committee, consisting of three on the part of the senate, and five on the part of the house.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 24, 1859.

JOINT RESOLUTIONS,

Relative to distribution of public lands.

WHEREAS, Without due consideration, and in an unguarded moment, a joint resolution was permitted to pass the Ohio Legislature, instructing our Senators and requesting our Representatives, to exert their influence to procure a fair and equitable distribution of a portion of the public domain among all the states, for the purpose of establishing and maintaining agricultural colleges therein; therefore, be it

Resolved, by the General Assembly of the State of Ohio, That we regard the public domain as a sacred trust held by the general government for the benefit of the whole people of the several states, and that any distribution of said lands among the states or otherwise, for the benefit of any specific interest, whether railroad, agricultural, or any other, is a violation of the trust and a gross injustice to the people, and that our Senators and Representatives in Congress be requested to use their influence against any and all such distribution and to sustain such legislation as will confine the disposal of said lands to actual settlers only, in such limited quantities as congress may prescribe at a price not exceeding the cost of survey and title.

Resolved, further, That the Governor be requested to forward immediately a copy of these resolutions to each of our Senators and Representatives in Congress.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

January 24, 1859.

JOINT RESOLUTION,

Relative to money of John Philips, a deceased convict.

WHEREAS, Information has been received from Mr. Van Slyke the present warden of the Ohio penitentiary that there is now in his hands the sum of $79 42 which came into the possession of the former warden, to wit: Mr. Ewing by virtue of the decease of John Philips who had been for near thirty years, and was at his decease, a convict in the Ohio penitentiary, and whereas notice has been given in the papers printed in Butler county, Ohio, (from where the said convict was sentenced) of the decease of said convict, and of the amount of money to his credit in said institution and no information having been received that there are any relations of the deceased entitled to the amount above stated; therefore,

Resolved, by the General Assembly of the State of Ohio, That the warden be and is hereby instructed and required to pay over to the officer having charge of the library in the penitentiary the amount of funds above stated, to be by said officer paid out for books for the use of the convicts.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

JOINT RESOLUTION,

Relative to constructing embankment on Hocking canal.

Resolved, by the General Assembly of the State of Ohio, That the board of public works are hereby directed to construct an embankment from the present embankment on the Hocking canal in the town of Athens, to such other point on the Hocking river as will effectually prevent the waters of said river after flowing over the state dam therein, from doing further damage to the canal, and the property of individuals, by the formation of new channels of said river, provided that the cost of said work shall not exceed seven hundred dollars.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

JOINT RESOLUTION,

Relative to authorizing John H. Klippart to publish his essay on wheat.

Resolved, by the General Assembly of the State of Ohio, That John H. Klippart, the secretary of the Ohio state board of agriculture, be and

he is hereby authorized to publish or cause to be published, for his own benefit and profit, his essay on wheat, with the cuts illustrating the same contained in the 12th annual report of said board; provided that said publication be made without expense to the state of Ohio.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 3, 1859.

JOINT RESOLUTION,

Relative to securing uniformity in election returns made to the secretary of state and president of the senate.

Resolved, by the General Assembly of the State of Ohio, That the secretary of state be and he is hereby required to procure and furnish to the several county clerks such blank forms for all returns of elections made to said officer and president of the senate, as will in future secure uniformity in such returns.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 5, 1859.

JOINT RESOLUTION,

Relative to finishing stairs in state house.

Resolved, by the General Assembly of the State of Ohio, That the state house commissioners are hereby directed to finish the stairs now built in accordance with the plan of the present architect; using the marble hand-rail and balusters, which have been heretofore prepared for that purpose, and paid for by the state.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

1859.

JOINT RESOLUTION,

Relative to appointment of committee to visit the charity school of Kendall, Stark county.

Resolved, by the General Assembly of the State of Ohio, That there be appointed a joint select committee of two on the part of the senate, and

three on the part of the house, to visit the charity school of Kendall, in Stark county, Ohio, and to examine the books and papers of said school, its financial condition and present management, and report what legislation if any is necessary to make said school more efficient.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 15, 1859.

JOINT RESOLUTION,

Relative to printing the report of the commissioner of statistics.

Resolved, by the General Assembly of the State of Ohio, That 500 copies of the annual report of the commissioner of statistics be printed in the usual form for the use of said commissioner, 300 copies for the use of the state librarian, for distribution and exchange, 200 copies for the use of the secretary of state, and 2000 copies for the use of the legislature, and that one thousand copies thereof be bound in the same manner as the report made last year, and distributed in the above proportions.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 15, 1859.

JOINT RESOLUTION,

Relative to binding report of commissioner of statistics with executive documents.

Resolved, by the General Assembly of the State of Ohio, That the annual report of the commissioner of statistics be printed and bound in the volume of executive documents.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 15, 1859.

JOINT RESOLUTIONS,

Relative to allowance of mileage and per centum, and the distribution of school funds to county treasurers by the auditor of state.

Resolved, by the General Assembly of the State of Ohio, That the auditor of state be advised to allow to the county treasurers their mileage at each semi-annual settlement.

Resolved, That the auditor of state be advised to allow to the county treasurers full per centum under the statute, for all moneys collected upon the duplicate for which they now settle.

Resolved, that the auditor of state be advised to distribute to the several counties, on or before the 25th March, 1859, all the school funds in the treasury not previously distributed.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 15, 1859.

JOINT RESOLUTION,

Relative to adjustment of damages on land of Joseph Herrold.

Resolved, by the General Assembly of the State of Ohio, That the board of public works be and they are hereby authorized and empowered to settle with Joseph Herrold of Athens, for all damages done to the lands, crops and fences of said Herrold by the overflow of water occasioned by the state dam and other improvements connected with the public works of the state, and to pay said damages out of the moneys appropriated for the payment of damages on the public works of the state. Provided, however, that the damages so to be adjusted shall not exceed five hundred dollars, and that said adjustment shall be in full of all claims of said Herrold for damages to the date of such adjustment.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

JOINT RESOLUTION,

Relative to claim of B. F. Dale & Co.

WHEREAS, it appears that B. F. Dale & Son, have a just and equitable claim against the state of Ohio for the execution of certain plain and ornamental plastering according to contract entered into between them and the state house commissioners, on the 10th day of May, 1855; and whereas, said work has been measured and its value estimated by Messrs. Ridgway and Moore at one time, and portions of the same work by George Warren at another time, all of them sworn measurers and reputed just and skillful men in their profession, the same being that of measurers; and whereas, discrepancies exist between the measurements and estimates of George Warren for the portions measured by him, and

the measurements and estimates made by Messrs. Ridgway & Moore, for the same portions, which discrepancies make a difference in the aggregate result of several hundreds of dollars, and are of a character indicating that some mistake was made by one or the other measurer; therefore,

Resolved, by the General Assembly of the State of Ohio, That the commissioners of the state house are hereby directed to obtain the services of Messrs. J. N. Ridgway and George Warren, who shall forthwith proceed to make such comparisons and measurements under the directions of the state house commissioners, as may be necessary to determine truly and accurately the amount due B. F. Dale & Son, under the provisions of their contract, which amount when so ascertained the said state house commissioners are directed to pay to the said B. F. Dale & Son forthwith, under the provisions of the aforementioned contract. But the amount so paid shall in no case exceed the sum of $9,154 18-100, with interest at the rate of six per cent. per annum from the time when the same became due.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 18, 1859.

JOINT RESOLUTION,

Relative to instructing the attorney general to bring suit against Joseph Cable.

Whereas, Joseph Cable, Esq., was in the month of January, 1856, appointed inspector at the Junction in Paulding county, by the governor of Ohio, at an annual salary of six hundred dollars; and whereas, the board of public works passed an order on the 27th day of February, 1856, to abolish the said office; and whereas, the said Joseph Cable has drawn from the treasury of the state the sum of twelve hundred dollars, without performing, it is alleged, any service whatever as inspector at the Junction in Paulding county, under color of his appointment as inspector. Therefore be it

Resolved, by the General Assembly of the State of Ohio, That the attorney general is hereby authorized and instructed to bring suit against the said Joseph Cable to recover back the money so by him drawn from the treasury of the state, if in the opinion of the attorney general a judgment for the same or any part thereof can be obtained.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

JOINT RESOLUTION,

Relative to claim of David Ross of Wood county.

WHEREAS, one David Ross, of Wood county, Ohio, claims to have an account against the state of Ohio for materials furnished for the use, and at the request of the agents of the state, in the construction of the Wabash and Erie Canal, which claim has been passed upon by the board of public works; and whereas, said Ross claims to have discovered additional testimony since the decision of said board of public works, sufficient to prove the correctness and justness of said account; and whereas, said board of public works decline to open up or review their decision on said claim, without authority given them for that purpose by joint resolution of the general assembly. Therefore, be it

Resolved, by the General Assembly of the State of Ohio, That the board of public works be and they are hereby authorized, if in their judgment it shall be considered right and proper to open up their said decision and decision and finding on the claim of said Ross, and proceed to review and pass upon said claim upon the original papers, files and testimony, together with such additional testimony as said Ross may be able to adduce in support thereof.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

February 28, 1859.

JOINT RESOLUTION,

To provide for the collection and preservation of colors and military trophies used and acquired by the militia of Ohio in actual service.

Resolved, by the General Assembly of the State of Ohio, That the adjutant general be directed, so far as practicable, to collect and to preserve in his office in the state house, all colors, military trophies and other relics connected with the service of the militia of Ohio in the war of 1812, the Indian wars and the war with Mexico, and that he receipt therefor to the parties contributing or donating the same, and cause each collection to be labeled with the name of the donor, and the field of service in which it was used: provided, that said adjutant general shall not be authorized to incur any expenditure of money in the performance of this duty, otherwise than the payment of expenses of written correspondence.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

JOINT RESOLUTION,

To provide for the authentication of claims of citizens of Ohio against the General Government for service rendered in the war of 1812.

Resolved, by the General Assembly of the State of Ohio, That the adjutant general be directed, as far as practicable, to collect and preserve on file in his office in the state house, the muster rolls, pay sheets, and the documentary papers relating to the war of 1812, and the Indian wars, and that whenever he shall find evidence of the service of Ohio volunteers, which service has not been requited by the General Government, that he shall advertise a list thereof for the benefit of the parties interested, and forward the same to the proper authorities at Washington.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 4, 1859.

JOINT RESOLUTION,

Relative to printing the report of the commissioner of statistics.

Resolved, by the General Assembly of the State of Ohio, That the several copies of the report of the commissioner of statistics heretofore ordered to be printed, be bound in the same manner as the 1,000 copies already ordered.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON,
President pro tem. of the Senate.

March 10, 1859.

JOINT RESOLUTION,

Relative to printing report of commissioners of Ohio state library.

Resolved, by the General Assembly of the State of Ohio, That one hundred copies of the report of the commissioners of the Ohio state library be bound in the style corresponding with that of the report of the commissioner of statistics.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
E. BASSETT LANGDON.
President pro tem. of the Senate.

March 14, 1859.

JOINT RESOLUTION,

Relative to printing report of the treasury investigating commission.

Resolved, by the General Assembly of the State of Ohio, That there be printed of the report of the treasury investigating committee for the use of the members of the general assembly, 5,000 copies without, and 15,000 copies with the evidence accompanying said report, the latter number to be bound in brochure covers, and that the same be printed in a separate volume to the senate journal; also, that there be printed 2,000 copies without the evidence in the German language.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 16, 1859.

JOINT RESOLUTIONS,

Relative to an examination of the terrace on the east side of the Capitol.

WHEREAS, It is represented and believed by competent engineers and mechanics that the construction of the terrace on the east side of the capitol building is such as to render the same not only insecure but dangerous; and whereas, it is the duty of the legislature, upon being so informed, to institute an immediate inquiry into the facts, therefore

Resolved, by the General Assembly of the State of Ohio, That Richard Page, Esq., Herman Yager and Sylvester Medberry, civil engineers, or either of them, are hereby authorized and requested to ascertain and report at an early day to this general assembly: 1st, the transverse strength of the cast iron girders or beams used in supporting the top of the terrace at the east side of the state house. 2d, what weight are said beams capable of sustaining with safety, and what weight does each now sustain, and, considering the surface of the terrace, what weight in a dense crowd would necessarily be put upon each beam. 3d, whether the said terrace, as a whole, is of such construction as will insure a permanent and safe superstructure; if not, what change is necessary to secure that object.

Resolved, That the state house commissioners are hereby directed to pay the said Herman Yager and the said Sylvester Medberry, from any money that may be hereafter appropriated for the purpose, any sum not exceeding four dollars per day, to each, for the time actually employed in the performance of such duty.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

JOINT RESOLUTION,

Relative to a sine die adjournment of this general assembly.

Resolved, by the Senate and House of Representatives, That this general assembly will adjourn sine die on the fourth day of April next, at twelve o'clock M.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

JOINT RESOLUTION,

Relative to appointment of a joint select committee on the report of Messrs. Edgerton, Reemelin and Morgan.

Resolved, by the General Assembly of the State of Ohio, That the report of Messrs. Edgerton, Reemelin and Morgan be referred to a joint select committee, to consist of three on the part of the senate, and five on the part of the house, who are instructed to examine and report what legislation, if any, is necessary to give effect to the findings and recommendations of the said commission, with leave to report by bill or otherwise.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 18, 1859.

JOINT RESOLUTION,

Relative to contract of Dennis McCarthy & Co., on Lancaster side cut.

Resolved, by the General Assembly of the State of Ohio, That the board of public works are hereby required to allow Dennis McCarthy & Co. to proceed and complete the widening and deepening the Lancaster side-cut, in accordance with the provisions of a contract between said McCarthy & Co., and said board, dated June 7, 1856, provided said McCarthy & Co. are willing to proceed; and if said McCarthy & Co. shall refuse to proceed further with said work, the acting commissioner in charge of said work shall immediately draw his check upon the appropriation now in the treasury for said work, in favor of said McCarthy

& Co., for the sum of three thousand dollars, taking their receipt in full therefor, and said contract shall be cancelled.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 23, 1859.

JOINT RESOLUTION,

Instructing the attorney general to assist in defending the suit of Elias Plum vs. the Treasurer of Fairfield county et al.

Resolved, by the General Assembly of the State of Ohio, That the attorney general be and he is hereby instructed to assist such counsel as the commissioners of Fairfield county may select in defending the suit now pending in the district court of the United States for the southern district of Ohio, and, if necessary, in prosecuting the same by error or otherwise to the supreme court of the United States, wherein Elias Plum is plaintiff and P C. Benadum, county treasurer of Fairfield county, and others, are defendants, said suit being brought by said Plum as a foreign stockholder on behalf of the Hocking Valley Branch of the State Bank of Ohio, in order to resist the payment on the part of said bank of its taxes, as assessed under the laws of this State.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

JOINT RESOLUTION,

Relative to the claim of Samuel Gordon.

WHEREAS, Samuel Gordon, of Miami county, Ohio, claims to have an account against the state of Ohio, for materials furnished and labor performed for the use and at the request of the agents of the state, on the Miami and Erie Canal, which claim has been passed upon by the board of public works; and

WHEREAS, the said Gordon claims to have discovered additional testimony since the decision of said board of public works, sufficient to prove the correctness and justness of said account; and

WHEREAS, Said board of public works decline to open or review their

decision on said claim, without authority given them for that purpose by joint resolution of the general assembly; therefore, be it

Resolved, by the General Assembly of the State of Ohio, That the board of public works be and they are hereby authorized, if in their judgment it shall be considered right and proper, to open up their said decision and finding on the claim of the said Gordon, and proceed to review and pass upon said claim upon the original papers filed and testimony, together with such additional testimony as said Gordon may be able to adduce in support thereof.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 26, 1859.

JOINT RESOLUTION,

Relating to printing the report of the commissioner of statistics.

Resolved, by the General Assembly of the State of Ohio, That there be printed and bound in cloth six thousand copies of the report of the commissioner of statistics, for the use of the members thereof, including the three thousand heretofore ordered.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 29, 1859.

JOINT RESOLUTION,

Relative to printing report of investigating committee in German.

Resolved, by the General Assembly of the State of Ohio, That there be printed in German for the use of the members of the general assembly, to be apportioned and distributed in like manner with those printed in English heretofore ordered, one thousand copies of the report of the treasury investigating committee with the evidence, in addition to those heretofore ordered; and that the evidence be also attached to one thousand of the two thousand copies heretofore ordered, so that there shall be printed in German, in all, one thousand copies without, and two thousand copies with the evidence.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 31, 1859.

JOINT RESOLUTION,

Relative to removing patients from lunatic asylums.

Resolved, by the General Assembly of the State of Ohio, That wherever, during the year 1859, it shall become necessary, by reason of change of districts made by law, to remove patients from one asylum of the state to another, the trustees of asylums from which and to which such patients are to be removed, are hereby authorized and empowered to make such removal and transfer, and the cost thereof shall be borne equally by said asylums, unless otherwise mutually agreed by the trustees, and shall be paid out of the fund appropriated for current expenses for such asylums.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

March 31, 1859.

JOINT RESOLUTION,

Relative to repairing the crib of the dam at McConnellsville, in Morgan county.

Resolved, by the General Assembly of the State of Ohio, That the board of public works are hereby authorized and directed to repair or re-construct the crib which was built for the purpose of conveying the water from the pool of the dam at McConnellsville, in Morgan county, to the Malta Mill, and to keep the race in repair; provided that the whole expense of repairing or re-constructing said crib shall not cost over twenty-five hundred dollars.

WILLIAM B. WOODS,
Speaker of the House of Representatives,
MARTIN WELKER,
President of the Senate.

March 31, 1859.

JOINT RESOLUTION,

Relative to printing report of the treasury investigating commission in advance of other printing.

Resolved, by the General Assembly of the State of Ohio, That the printing of the report of the treasury investigating committee, heretofore ordered, be and the same is hereby ordered to be executed in advance of all other public printing, except the bills and laws, and that the secretary of state be and he is hereby authorized and required immediately after the printing and binding of the 15,000 copies of said report and evidence,

and the 2,000 copies in German as heretofore ordered, and the 2,000 copies in German with the evidence, to apportion the same as follows: To the president of the senate and to each of the members of the general assembly, ninety-eight copies in English and thirteen copies each of the German; to the governor, secretary of state, treasurer, auditor, comptroller and attorney general, and each member of the board of public works, thirty each in English and four each in German; to the three sergeants-at-arms and nine clerks in the senate, to the four sergeants-at-arms and eleven clerks in the house, twenty-five each in English and four each in German, and to box up and forward the same to the said members and officers named, at their respective residences, the charges of transportation to be paid in the same manner as is or may be provided by law for the distribution of the laws and journals, and the balance to be retained in the state library; and that the 1,000 in German without the evidence, ordered in addition, be distributed and sent as aforesaid equally to the president of the senate and the members of the general assembly.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Authorizing the Attorney General to receive a conveyance of, and to sell certain lands in the State of Illinois belonging to John G. Breslin.

Resolved, by the General Assembly of the State of Ohio, That the attorney general be and he is hereby authorized and directed to receive for and on the part of the state of Ohio the conveyance or conveyances in fee simple of certain lands in the state of Illinois or elsewhere, from John G. Breslin, late treasurer of state, or his securities, or from any other person in his or their behalf, or from any person or persons connected with the late treasury defalcation, such deed or deeds to be executed to the state of Ohio, and the lands so conveyed to become the property of the state. And be it further hereby resolved, that the said attorney general be and he is hereby empowered and directed whenever in his opinion it shall be best for the interests of the state, to cause such land to be sold for cash at public auction to the highest bidder, after he shall have first given six weeks notice of the time and place of sale in at least two newspapers, published in Cincinnati, Columbus, Cleveland, and such towns in the state of Illinois as may be nearest said land, if two newspapers be published in them, if not then in one, and after such sale the said attorney general is hereby required to pay said money or moneys arising therefrom into the sinking fund of the state of Ohio, and upon the payment of the purchase money for said land, the governor of Ohio is hereby empowered and directed to make, execute and deliver

to the purchaser or purchasers thereof full and complete conveyances for the same.

Resolved, That upon the conveyances to the State by a valid title of any lands under the provisions of the past resolution, the late treasurers by whom or upon whose behalf the same may be made, shall be credited with such sum or sums of money as may be stipulated by the attorney general and the said treasurer to the prices or value at which said lands shall be received by the state.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Relative to broken bank and counterfeit money in the treasury.

Be it resolved by the General Assembly of the State of Ohio, That the auditor of state, the comptroller of the treasury, and the treasurer of state, be and they hereby are requested to have made out a schedule of all such counterfeit and broken bank paper; cause the said counterfeit notes to be burned to ashes, and the broken bank notes to be sold, bringing the proceeds of such sale into the treasury; file such schedule with a record of their proceedings, in their several offices, and enter the balance to the credit of the general revenue on the warrant of the auditor drawn specifying the same, and report their proceedings to the governor in their next annual report, provided that nothing herein contained shall authorize the sale of the bills of the Canal Bank of Cleveland and the Seneca County Bank of Tiffin, Ohio.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION.

Relative to a sine die adjournment,

Resolved by the Senate and House of Representatives, That the general assembly will adjourn sine die on the 6th day of April next at 12 o'clock M. of said day, and that House joint resolution No. 65, heretofore passed by this general assembly, be and the same is hereby rescinded.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTIONS,

Relative to assets of John G. Breslin, received from the treasury investigating commission.

Resolved, by the General Assembly of the State of Ohio, That the attorney general be and he is hereby instructed to proceed to the collection and the conversion into money by suit or otherwise of the assets now in his hands received from the treasury investigating commission, and by them received of John G. Breslin, late treasurer of state. Provided, that the commencement or prosecution of any such proceedings, or any other steps taken by the attorney general to obtain the payment of such assets, shall not be construed as admitting on behalf of the state the legality of the transactions of the said late treasurer, represented by said assets, nor as assuming them on the part of the state, nor as impairing or in any manner affecting the claim of the state against the said late treasurer or his sureties. Such assets, when realized in cash, to be paid into the treasury of state and credited to said John G. Breslin. And be it further resolved, that the attorney general be and he is hereby instructed and directed to commence suits against Albert A. Bliss, late treasurer of state and his sureties, to recover any balance due from him as such treasurer, and also against H. P. Bowman, late treasurer of Hamilton county, to recover so much as may be due from him to the state, and to prosecute suits under existing laws against all persons who are found to have made contracts or other engagements for the illegal or improper use of the public moneys with any of the defaulting state treasurers, and particularly the Ohio Savings Institute in the city of Tiffin, Clinton Bank of Columbus, City Bank of Columbus, and all other banks where interest has been paid or agreed to be paid by them to the said treasurers, or either of them; also, against W. W. Cones & Co., Daniel Beckel, Sanderson Robert, E. M. Gregory, Charles Johnson, John G. Camp, L. Waggoner, Ozias Bowen, William Sturges, Benjamin E. Smith, John F. Bartlett, and Bartlit & Smith, E. S. Hamlin and Thomas Moodie, or any other party or parties who may have contracted or agreed for the illegal use of the public money or who shall have received such money without authority of law. And be it further resolved, That it appearing to the general assembly that the said John G. Breslin, late treasurer of state, is at this time beyond the jurisdiction of the state of Ohio, the attorney general is hereby authorized to receive from him (the said Breslin), or from his agent, attorney, or assignee, or trustee, any property, securities, moneys or credits, and convert, with the advice and concurrence of the majority of the board of commissioners of the sinking fund, the same into money, and pay, from time to time, as the same is realized, the amount thereof, according to law, into the state treasury, and the auditor of state may enter the net cash proceeds thus paid into the state treasury to the credit of the said Breslin in his account as treasurer of state Provided, that the receipt of any such property, moneys or credits, shall not in any way or manner release the securities of the said Breslin, or in [any] way or manner be held, or construed, or be considered, as a compromise, or a compounding with the said Breslin, as it respects either any criminal or any civil liability of the said Breslin to the state of Ohio, in consequence of his defalcations and embezzlements whilst acting as treasurer of state as aforesaid.

Resolved, That for his services under these resolutions the attorney

general receive three per cent. upon all moneys collected by him and upon the price and value of all property taken by him in compromise or discharge of any of the claims herein specified.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Authorizing the auditor of state to sell a locomotive belonging to the state.

Resolved, by the General Assembly of the State of Ohio, That the auditor of state be directed to sell the locomotive belonging to the state formerly used in the construction of the state house, to the best advantage for the state and on such terms as the auditor may agree to.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTIONS,

Relative to apportionment of the treasury defalcation.

Resolved, by the General Assembly of the State of Ohio, That the commissioners of the sinking fund be and they are hereby authorized and required, at as early a day as may be practicable consistent with their other duties, to ascertain the amount of the defalcation in the treasury at the expiration of the official term of John G. Breslin, late treasurer of state, and the increased amount of such defalcation at the time of the resignation of William H. Gibson, of the same office. That upon ascertaining the amount of such defalcation, said commissioners apportion the same among the several funds in the treasury in such manner as may to them seem proper, and certify the apportionment to the auditor, comptroller and treasurer of state, who shall thereupon charge the several funds with their respective proportions, agreeably to such apportionment, and the amount thereof shall be charged by the auditor and comptroller to the commissioners of the sinking fund as a suspense account and accounts kept separate from the cash funds under the control of the commissioners. When any portion of such defalcation shall be collected, or otherwise recovered, the same shall be apportioned in the manner aforesaid, and credited to the several funds to which the defalcation shall have been charged.

Resolved, That upon ascertaining the amounts of the defalcations aforesaid, the said commissioners shall charge over in their accounts to

the said John G. Breslin and to the said William H. Gibson, their respective portions of the same, and that they correct such accounts if and wherever any facts shall come to their knowledge requiring such correction to be made, and when any moneys applicable to the reduction of the amount of said defalcation, shall be collected of said Breslin, or said Gibson or their sureties, or from any other source, the same credited to the proper account, and paid into the treasury.

Resolved, That in making their annual reports the auditor and comptroller shall render an account of the matters aforesaid separate from that of the usual transactions of their offices, and in like manner the commissioners of the sinking fund shall include the same in their semi-annual reports, making complete, separate and particular statements of the various items comprising the said suspense account and the condition of the securities and property comprising the same.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Relative to construction of a new penitentiary.

Resolved, by the General Assembly of the State of Ohio, That the governor be and he is hereby authorized and requested to appoint a commission consisting of three competent citizens of the state, whose duty it shall be to inquire and report, at as early a day as may be convenient, to the governor, to be laid before the next general assembly: 1st. What additions, if any, to increase to a sufficient extent the capacity of the prisons of the state, for the reception, security and employment of persons convicted of penitentiary offenses, should be made 2d. Whether such increase should be made by additions to the present penitentiary, beyond those now authorized, by the erection of a new penitentiary. 3d. If by the erection of a new penitentiary, in what part of the state should the same be erected, and what will be the cost of the necessary real estate. 4th. If by the erection of additions to the present penitentiary, what will be the cost thereof, and upon what plan? and if by the erection of a new penitentiary, what will be the probable cost of a prison of sufficient capacity to receive, secure and employ five hundred convicts, and of one of sufficient capacity for three hundred convicts, so built as to admit of additions thereto, without defeating the order or arrangement of the building or incurring the loss or destruction of any of the walls thereof, and what will be the cost of such new penitentiary, on either plan.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Relative to printing 17th, 18th and 19th volumes of Ohio Reports.

Resolved, by the General Assembly of the State of Ohio, That the secretary of state is authorized to contract for two hundred copies each, of the 17th, 18th and 19th volumes of Ohio Reports, at a price not exceeding $2 08 per copy.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Relative to the chief clerks of the two houses making indexes, reading proof, &c., after the adjournment of the general assembly.

Resolved, by the General Assembly of the State of Ohio, That the chief clerks of the senate and house of representatives shall each receive at the rate of four dollars per day for the time actually employed after the adjournment of the general assembly, for making out indexes to the printed and recorded journals of the present session, for reading proof sheets of the same, and for such other necessary work as they are by law and the duties of their offices required to perform, to be paid out of any money appropriated to defray the expenses of the general assembly, on the order of the auditor of state.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 4, 1859.

JOINT RESOLUTION,

Relative to an amendment to the constitution providing for annual sessions of the general assembly.

Resolved, by the General Assembly of the State of Ohio, Three-fifths of the members of each house concurring therein, that it be and is hereby proposed to the electors of the state to vote at the next annual October state election, upon the approval or rejection of the following amendment as a substitute for the first clause of the twenty-fifth section of the second article of the constitution of this state, to-wit: "All regular

sessions of the general assembly shall commence on the first Monday in January annually."

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

JOINT RESOLUTION,

Relative to purchase of horses, mules, &c., from Forrer, Burt & Co.

Resolved, by the General Assembly of the State of Ohio, That the acting commissioner in charge of division No. 3, of the public works is hereby directed to receive and pay for at their appraised value, the horses and mules taken from Messrs. Forrer, Burt & Co., under and by virtue of the act of April 15, 1857, entitled an act making appropriations for the public works for 1857, and that he also pay such charges for keeping and taking care of the same as may be reasonable and proper.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

JOINT RESOLUTION,

Relative to printing extra copies of the federal court resolutions.

Resolved, by the General Assembly of the State of Ohio, That 3,000 additional copies of the report and joint resolutions of the select committee on state rights be printed, in paper covers, for the use of the members of the general assembly.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

JOINT RESOLUTION,

Relative to printing documents in German.

Resolved, by the General Assembly of the State of Ohio, That there be printed in the German language, for the year A. D., 1859, fifteen hundred copies each, of the reports of the auditor of state, the treasurer of state, the common school commissioner, the reports of the benevolent institutions, of the reform school, and the report of the directors and warden of the penitentiary.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

JOINT RESOLUTION,

Relative to the claim of George Rinehart.

Resolved, by the General Assembly of the State of Ohio, That the auditor of Morrow county, Ohio, be and he is hereby required to settle and adjust the claim of George Rinehart of said county for money overpaid by said Rinehart for the purchase of lands from the state in sec. 16, township 19, range 19, in said county.

WILLIAM B WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 5, 1859.

JOINT RESOLUTION,

To authorize a settlement with the Ohio Life Insurance and Trust Company.

Resolved, by the General Assembly of the State of Ohio, That the commissioners of the sinking fund be and they are hereby authorized and empowered to settle and adjust the unsettled accounts and dealings of the state with the Ohio Life Insurance and Trust Company, upon such terms

as may be just and equitable to both parties. The said commissioners are also authorized to use such means as they may deem proper to obtain possession of bonds, bills, notes or other securities deposited or placed with the cashier of said trust company in the city of New York by William H. Gibson, late treasurer of state, and of the proceeds of such bonds, bills, notes or other securities, but nothing in this resolution contained shall be construed as releasing said trust company from their liability to account to the state for the said securities, or the expenses of obtaining possession as aforesaid.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Relative to the claim of Peter Snider.

WHEREAS, The state of Ohio, by her duly constituted agents, on the first day of May, 1831, leased to the said Peter Snider and one Martin Snider, certain water power at lock No. 1, south of Dayton on the Miami and Erie canal for the period of ninety-nine years, which said water power has been improved by the said Peter and Martin Snider by the erection of mills and machinery at said lock—and whereas on the 22d day of June, 1839, the said Martin Snider sold and conveyed all his interest in said lease to the said Peter Snider. And, whereas, it is claimed by the said Peter Snider that the state of Ohio, by her agents, has failed to comply with the terms of said lease on the part of the state, and has failed to furnish to the said Peter Snider the amount of water power at said lock, which by the terms of said lease the state was bound to furnish; therefore, be it

Resolved, by the General Assembly of the State of Ohio, That the board of public works be and they are hereby authorized and required to settle and adjust said matter with the said Peter Snider and if in the opinion of said board, the state has in any respect failed to comply with the terms of said lease on her part, shall pay to the said Peter Snider, out of any moneys appropriated for the payment of damages on the public works, any damages which the said Peter Snider may have sustained by reason of such failure on the part of the state.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

JOINT RESOLUTION,

Relative to enlarging ditches of Maumee and Western Reserve roads.

Resolved, by the General Assembly of the State of Ohio, That the board of public works are hereby authorized and directed to cause the ditches of the Maumee and Western Reserve road to be enlarged, and new ditches constructed where necessary, in order to carry off all the water which may flow into them, and to prevent the adjoining lands from being overflowed by such water.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

JOINT RESOLUTION,

Relative to adjustment of claims against the State.

Resolved, by the General Assembly of the State of Ohio, That a committee be appointed consisting of three on the part of the House and three on the part of the Senate, for the purpose of investigating all claims for damages against the state of Ohio, arising out of the recission on the part of the state of certain contracts entered into with different individuals, for keeping the public works of the state in repair and that said committee report to the House.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 2, 1859.

JOINT RESOLUTION,

Relative to governor's proclamation.

Resolved, by the Senate and House of Representatives, That the governor be and he is hereby requested, in the course of the current year, to issue his proclamation designating a day of public thanksgiving and prayer to Almighty God, for his blessings vouchsafed to the people of Ohio.

WILLIAM B. WOODS,
Sveaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Relative to the receiving of the outstanding circulation of the Canal Bank of Cleveland by the treasurer of state, and the issuing of certificates therefor.

Resolved, by the General Assembly of the State of Ohio, That the treasurer of state is hereby directed to receive all outstanding notes of the Canal Bank of Cleveland and issue his certificates for the same, in the same manner as though the time for receiving said notes had not expired, as per printed notice. And the said treasurer of state is also directed, upon the final payment or part payment of the certificates given for the notes of the Canal Bank, to place the certificates given for said notes, by virtue of this resolution, upon the same footing as those originally given by him before his printed notice: Provided, that this resolution shall not authorize the said treasurer to extend the time for receiving said notes beyond the first day of August next, of which due notice shall be given in two or more newspapers of the city of Columbus; and provided further, that nothing in this resolution contained shall be construed as authorizing the redemption of said notes by the treasurer of state, otherwise than from the proper assets of [the] bank, or to make the state in any way or manner liable therfeor.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Relative to preserving printed bills, &c., in state library.

Resolved, by the General Assembly of the State of Ohio, That the state librarian be and he is hereby instructed and required to have bound and preserved in the library, for future reference, two copies of the printed bills, and printed amendments to bills introduced in the Senate and House during the present session.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTIONS,

Relative to tonnage duty on merchandise passing over the Pennsylvania railroad.

WHEREAS, By section ten of article one of the constitution of the United States, it is provided that no state shall, without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and that no state shall, without the like consent, lay any tonnage duty;

and, whereas, by the act to incorporate the Pennsylvania railroad company, enacted by the senate and house of representatives of the commonwealth of Pennsylvania in general assembly met, and approved by the governor of the said commonwealth the thirteenth day of April, one thousand eight hundred and forty-six, the said company is authorized, from time to time, to establish, demand and receive such rates of toll or other compensation for the transportation of merchandize and commodities, passing over said railroad, as to the president and directors shall seem reasonable; and it is provided and enacted, that in addition to such toll or other compensation, all tonnage, of whatever kind or description, except the ordinary baggage of passengers, loaded or received at any point on the said Pennsylvania railroad, between the cities of Pittsburg and Harrisburg, or at either of said cities, and carried or conveyed on or over the same, more than twenty miles, between the tenth day of March and the first day of December, in each and every year, shall be subject to a toll or duty, for the use of the said commonwealth of Pennsylvania, at the rate of five mills per mile for each ton of two thousand pounds, to be collected by the said company and paid to the treasurer of the said commonwealth, in the manner and at the times specified in the said act; and whereas, by the act supplementary to the act aforesaid, approved by the governor of the commonwealth aforesaid the twenty-seventh day of March, one thousand eight hundred and forty-eight, it is further provided and enacted, that the tax on tonnage of five mills per ton per mile from the tenth of March to the first of December, payable to the state treasury, under the provisions of the first named act, be commuted to a tax of three mills per ton per mile during the whole year, under certain conditions, in the said last mentioned act specified; to which said impositions of toll or duty on tonnage the congress of the United States have not, at any time, consented; and whereas, the toll or duty on tonnage, so imposed as aforesaid, is a grievous and unwarrantable burden upon the people of this state, in the transit of their merchandise and other commodities through and in the state of Pennsylvania, in the importation thereof into this state, and the exportation of the same to other markets: Therefore,

Resolved, by the General Assembly of the State of Ohio, That in the opinion of this general assembly, the aforesaid provision of the constitution of the United States was adopted as a part of that instrument for the purpose and with the intent thereby of prohibiting the imposition, by state authority, of any tax or duty upon tonnage, and upon the importation, exportation or transit of merchandise and other commodities into, from, or through any of the states, without the consent of the congress, and that the aforesaid acts of the general assembly of the commonwealth of Pennsylvania, laying a toll or duty on tonnage, are in conflict with the constitution, and impose illegal burdens upon the citizens of this state.

Resolved, That the governor be and he is hereby authorized and requested to correspond with the proper authorities of the commonwealth of Pennsylvania, with a view to procuring a repeal or abrogation of the aforesaid toll or duty on tonnage, and that he transmit to the governor of the said commonwealth, to be laid before the legislature thereof, a copy of these resolutions; and that he also transmit a copy to the governor of each state.

Resolved, That the governor be and he is hereby authorized and requested to cause inquiry and examination to be made by the attorney general as to the constitutional validity of the acts of the general assembly of the commonwealth of Pennsylvania, levying a tonnage, tax or duty on merchandise and other commodities transported on the Pennsylvania railroad, and upon receiving the report of the attorney general, the governor be and he is hereby authorized and requested to cause legal proceedings to be taken by the attorney general in the proper courts, at an early day, to test the constitutional validity of said tonnage, tax or duty.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Rescinding S. J. R. 95, and relative to a *sine die* adjournment.

Resolved, by the General Assembly of the State of Ohio, That the resolution of adjournment heretofore passed, be and the same is hereby rescinded, and that this general assembly adjourn *sine die* on this day, Wednesday, April 6th.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Assigning rooms in state house to attorney general and comptroller.

Resolved, by the General Assembly of the State of Ohio, That rooms numbers four, five and six, in the south wing, first story of the capitol, be and the same are hereby assigned to the comptroller of the treasury, that room number five on east side of center building, now occupied by the comptroller of the treasury to the attorney general.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

JOINT RESOLUTION,

Relative to printing the proposed constitutional amendment in the papers of the state.

Resolved, by the General Assembly of the State of Ohio, That the secretary of state be and he is hereby instructed to cause the proposed amendment to the constitution, passed at the present session, providing for annual sessions of the legislature to be published in the newspaper having the contract for the publishing of the laws of the state, without delay, and forthwith to forward three copies of the same (together with a copy of this resolution) under his certificate that said copies are correct, to the auditor of each county, and the auditors respectively shall immediately proceed to contract for the publication of the said proposed amendment in two weekly English and in one German weekly newspaper, if published in the county, till the second Tuesday of October, A. D., 1859, and the publication shall be paid out of the county treasury.

WILLIAM B. WOODS,
Speaker of the House of Representatives.
MARTIN WELKER,
President of the Senate.

April 6, 1859.

SECRETARY OF STATE'S OFFICE,
Columbus, O., May 10, 1859.

I hereby certify that the foregoing general and local laws and joint resolutions are correctly copied from the original rolls on file in this office.

ADDISON P. RUSSELL,
Secretary of State.

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